INTERNATIONAL COURT OF JUSTICE

Yearbook
2003-2004

No. 58

I.C.J. - THE HAGUE - 2004

YEARBOOK

2003-2004

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In March 1947 the International Court of Justice instructed the Registrar to publish a *Yearbook* providing general information concerning its organization, jurisdiction, activities and administration.

The present volume – fifty-eighth of the series – covers the period from 1 August 2003 to 31 July 2004.

The *Yearbook* is prepared by the Registry and in no way involves the responsibility of the Court; in particular, the summaries of judgments, advisory opinions and orders contained in Chapter VI cannot be quoted against the actual texts of those judgments, advisory opinions and orders and do not constitute an interpretation of them.

Philippe COUVREUR,
Registrar of the Court.

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INTRODUCTION

The *International Court of Justice*, which has its seat in The Hague, is the principal judicial organ of the United Nations.

It had as its predecessor the *Permanent Court of International Justice*, which was instituted by the League of Nations in 1920 and was dissolved in 1946.

I. Basic Texts

The constitutional texts of the Court are the Charter of the United Nations and the Statute of the Court. Other basic texts are the Rules of Court and the Practice Directions supplementing them, as well as the resolution concerning the internal judicial practice of the Court.

1. Charter of the United Nations

The International Court of Justice was brought into being by the Charter of the United Nations, signed at San Francisco on 26 June 1945. The Charter deals with the Court in Article 7, paragraph 1, Article 36, paragraph 3, and Articles 92-96, which form Chapter XIV.

2. Statute of the International Court of Justice

(a) *Text of the Statute*

By virtue of Article 92 of the Charter of the United Nations, the Statute of the Court is annexed to the Charter, of which it forms an integral part. The text of the Statute, which also was signed at San Francisco on 26 June 1945, is published by the Court in the volume *I.C.J. Acts and Documents No. 5*, pages 60-89.

The above-mentioned Article indicates that the Statute is based upon that of the *Permanent Court of International Justice*. The modifications are few in number, most of them being formal adaptations designed to take account of the replacement of the League of Nations by the United Nations. The *I.C.J. Yearbook 1946-1947*, pages 101-102, gives a list of the articles modified.

(b) *States parties to the Statute*

Article 93 of the Charter provides:

> "1. All Members of the United Nations are *ipso facto* parties to the Statute of the International Court of Justice.

> 2. A State which is not a Member of the United Nations may become a party to the Statute of the International Court of Justice on conditions to be determined in each case by the General Assembly upon the recommendation of the Security Council."

The States parties to the Statute are listed in Chapter III, pages 95-100, of this *Yearbook*.

(c) *Amendments to the Statute*

According to Article 69 of the Statute, amendments to that instrument may be effected by the same procedure as is provided for amendments to the Charter. This procedure is set out in Chapter XVIII of the Charter (Arts. 108-109). Article 108 provides that amendments to the Charter "shall come into force for all Members of the United Nations when they have been adopted by a vote of two-thirds of the members of the General Assembly and ratified in accordance with their respective constitutional processes by two-thirds of the Members of the United Nations, including all the permanent members of the Security Council".

Article 69 of the Statute also specifies that provisions concerning the participation in the amendment procedure of States which are parties to the Statute but are not members of the United Nations may be adopted by the General Assembly upon recommendation of the Security Council (see Chap. III, pp. 100-101, below).

Furthermore, Article 70 of the Statute empowers the Court to propose of its own accord such amendments to the Statute as it may deem necessary.

No amendments have so far been made to the Statute.

3. Rules of Court

Article 30 of the Statute provides that "the Court shall frame rules for carrying out its functions. In particular, it shall lay down rules of procedure."

Rules of Court were adopted on 6 May 1946, and were published by the Court in the volume *I.C.J. Acts and Documents No. 1*, second edition, pages 54-83. They were based on the latest text of the Rules of the *Permanent Court*, that of 11 March 1936, with certain changes, formal and substantive, a list of which was given in *I.C.J. Yearbook 1946-1947*, pages 102-103.

From 1946 to 1972 the Rules remained unchanged, although from time to time the Court, which keeps its procedure under constant review, considered their modification. In 1967 a revision was undertaken (see *I.C.J. Yearbook 1967-1968*, p. 87; *I.C.J. Yearbook 1969-1970*, p. 114; *I.C.J. Yearbook 1970-1971*, pp. 109-110) and on 10 May 1972 the Court adopted some partial amendments of immediate interest. Amended and partly renumbered Rules of Court (see *I.C.J. Acts and Documents No. 3*, pp. 92-149) thus came into force on 1 September 1972. A Note by the Registry (*Background Note IV*, or see *I.C.J. Yearbook 1971-1972*, pp. 3-11) indicates the changes and gives a table of concordance between the 1946 Rules and those of 1972.

The work of revision was subsequently resumed, and culminated on 14 April 1978 in the adoption of a new set of Rules. These Rules of Court came into force on 1 July 1978 and as from that date replaced the 1972 amended version of those adopted in 1946. They were first published in *I.C.J. Acts and Documents No. 4* concurrently with the issue of *I.C.J. Background Note V*, entitled "Note by the Registry on the Revised Rules of Court (1978)", which includes a table of concordance as between the respective articles of the new set and its predecessor. For a rather more detailed account of the background the reader is referred to pages 111-119 of *I.C.J. Yearbook 1977-1978*, which feature an analytical table enabling the structure of the new set of Rules to be compared with that of the 1946 and 1972 sets, and a table of concordance as between the specific articles of the 1978, 1972 and 1946 Rules of Court. The publication containing the 1978 Rules of Court is *I.C.J. Acts and Documents No. 5* (pp. 91-161).

On 5 December 2000 the Court adopted amendments to two Articles of its 1978 Rules: Article 79, relating to preliminary objections, and Article 80, relating to counter-claims. The amendments aimed at countering the proliferation of, and shortening, incidental proceedings, at clarifying the rules in force and at adapting them to affect more closely the practice developed by the Court. They came into force on 1 February 2001. The Rules adopted on 14 April 1978 continue to apply to all cases submitted to the Court prior to 1 February 2001, and to all phases of those cases.

The text of the Rules of Court as amended has been printed and a *Note by the Registry Indicating the Rules of Court (1978) Amended on 5 December 2000 (Background Note VII)* has been published. It is reproduced in *I.C.J. Yearbook 2000-2001* (pp. 3-4.)

In October 2001 the Court decided to adopt Practice Directions for use by the States appearing before it. These Practice Directions involve no alteration to the Rules of Court, but are additional thereto. Practice Directions VII and VIII do not affect a choice or designation made by the parties prior to 7 February 2002, the date of the adoption by the Court of those Directions. The text of the Practice Directions is reproduced in *I.C.J. Yearbook 2001-2002* (pp. 3-5).

On 30 July 2004 the Court amended existing Practice Direction V and promulgated new Practice Directions X, XI and XII. The amendment to Practice Direction V, which sets the four-month period for the presentation by a party of its observations and submissions on preliminary objections, clarifies that this period runs from the date of the filing of the preliminary objections. Practice Direction X requests the Agents of the parties to attend without delay any meeting called by the President of the Court whenever a decision on a procedural issue needs to be made in a case. Practice Direction XI states that in the oral pleadings on provisional measures parties should limit themselves to what is relevant to the criteria for the indication of such measures. Finally, Practice Direction XII establishes a procedure to be followed with regard to written statements and/or documents submitted by international non-governmental organizations in connection with advisory proceedings. The text of the above-mentioned Practice Directions is reproduced below:

Practice Direction V

With the aim of accelerating proceedings on preliminary objections made by one party under Article 79, paragraph 1, of the Rules of Court, the time-limit for the presentation by the other party of a written statement of its observations and submissions under Article 79, paragraph 5, shall generally not exceed four months from the date of the filing of the preliminary objections.

Practice Direction X

Whenever a decision on a procedural issue needs to be made in a case and the President deems it necessary to call a meeting of the Agents to ascertain the views of the parties in this regard pursuant to Article 31 of the Rules of Court, Agents are expected to attend that meeting as early as possible.

Practice Direction XI

The Court has noticed the increasing tendency of parties to request the indication of provisional measures. Parties should in their oral pleadings thereon limit themselves to what is relevant to the criteria for the indication of provisional measures as indicated in the Statute, Rules and jurisprudence of the Court. They should not enter into the merits of the case beyond what is strictly necessary for that purpose.

Practice Direction XII

1. Where an international non-governmental organization submits a written statement and/or document in an advisory opinion case on its own initiative, such statement and/or document is not to be considered as part of the case file.

2. Such statements and/or documents shall be treated as publications readily available and may accordingly be referred to by States and intergovernmental organizations presenting written and oral statements in the case in the same manner as publications in the public domain.

3. Written statements and/or documents submitted by international non-governmental organizations will be placed in a designated location in the Peace Palace. All States as well as intergovernmental organizations presenting written or oral statements under Article 66 of the Statute will be informed as to the location where statements and/or documents submitted by international non-governmental organizations may be consulted.

II. Chronological Survey

The Charter of the United Nations and the Statute of the Court entered into force on 24 October 1945.

After the election of its Members, on 6 February 1946, the Court met for the first time in The Hague on 1 April of the same year.

The first case entered in the General List of the Court *(Corfu Channel (United Kingdom* v. *Albania))* was submitted on 22 May 1947.

Between then and 31 July 2004 the Court has had to deal with a total of 131 cases, i.e., 107 contentious cases and 24 advisory cases, as listed below. In those cases it gave 80 judgments, of which 48 were on the merits, and 24 advisory opinions. Of the 422 orders made therein, 301 related solely to the fixing or extending of time-limits, while 380 orders related to contentious cases and 35 to advisory cases.

Title *(a)* Contentious[1]	*Dates*
Corfu Channel (United Kingdom v. *Albania)*	1947-1949
Fisheries (United Kingdom v. *Norway)*	1949-1951
Protection of French Nationals and Protected Persons in Egypt (France v. *Egypt)*	1949-1950
Asylum (Colombia/Peru)	1949-1950
Rights of Nationals of the United States of America in Morocco (France v. *United States of America)*	1950-1952
Request for Interpretation of the Judgment of 20 November 1950 in the Asylum case (Colombia v. *Peru)*	1950
Haya de la Torre (Colombia v. *Peru)*	1950-1951
Ambatielos (Greece v. *United Kingdom)*	1951-1953
Anglo-Iranian Oil Co. (United Kingdom v. *Iran)*	1951-1952
Minquiers and Ecrehos (France/United Kingdom)	1951-1953
Nottebohm (Liechtenstein v. *Guatemala)*	1951-1955
Monetary Gold Removed from Rome in 1943 (Italy v. *France, United Kingdom and United States of America)*	1953-1954
Electricité de Beyrouth Company (France v. *Lebanon)*	1953-1954
Treatment in Hungary of Aircraft and Crew of United States of America (United States of America v. *Hungary)*	1954
Treatment in Hungary of Aircraft and Crew of United States of America (United States of America v. *USSR)*	1954
Aerial Incident of 10 March 1953 (United States of America v. *Czechoslovakia)*	1955-1956

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[1] In the case of proceedings instituted by means of a special agreement the names of the parties are separated by an oblique stroke.

Title	*Dates*
Antarctica (United Kingdom v. *Argentina)*	1955-1956
Antarctica (United Kingdom v. *Chile)*	1955-1956
Aerial Incident of 7 October 1952 (United States of America v. *USSR)*	1955-1956
Certain Norwegian Loans (France v. *Norway)*	1955-1957
Right of Passage over Indian Territory (Portugal v. *India)*	1955-1960
Application of the Convention of 1902 Governing the Guardianship of Infants (Netherlands v. *Sweden)*	1957-1958
Interhandel (Switzerland v. *United States of America)*	1957-1959
Aerial Incident of 27 July 1955 (Israel v. *Bulgaria)*	1957-1959
Aerial Incident of 27 July 1955 (United States of America v. *Bulgaria)*	1957-1960
Aerial Incident of 27 July 1955 (United Kingdom v. *Bulgaria)*	1957-1959
Sovereignty over Certain Frontier Land (Belgium/Netherlands)	1957-1959
Arbitral Award Made by the King of Spain on 23 December 1906 (Honduras v. *Nicaragua)*	1958-1960
Aerial Incident of 4 September 1954 (United States of America v. *USSR)*	1958
Barcelona Traction, Light and Power Company, Limited (Belgium v. *Spain)*	1958-1961
Compagnie du Port, des Quais et des Entrepôts de Beyrouth and Société Radio-Orient (France v. *Lebanon)*	1959-1960
Aerial Incident of 7 November 1954 (United States of America v. *USSR)*	1959
Temple of Preah Vihear (Cambodia v. *Thailand)*	1959-1962
South West Africa (Ethiopia v. *South Africa; Liberia* v. *South Africa)*	1960-1966
Northern Cameroons (Cameroon v. *United Kingdom)*	1961-1963
Barcelona Traction, Light and Power Company, Limited (New Application: 1962) (Belgium v. *Spain)*	1962-1970
North Sea Continental Shelf (Federal Republic of Germany/Denmark; Federal Republic of Germany/Netherlands)	1967-1969
Appeal Relating to the Jurisdiction of the ICAO Council (India v. *Pakistan)*	1971-1972
Fisheries Jurisdiction (United Kingdom v. *Iceland)*	1972-1974
Fisheries Jurisdiction (Federal Republic of Germany v. *Iceland)*	1972-1974
Nuclear Tests (Australia v. *France)*	1973-1974

Title	*Dates*
Nuclear Tests (*New Zealand* v. *France*)	1973-1974
Trial of Pakistani Prisoners of War (*Pakistan* v. *India*)	1973
Aegean Sea Continental Shelf (*Greece* v. *Turkey*)	1976-1978
Continental Shelf (*Tunisia/Libyan Arab Jamahiriya*)	1978-1982
United States Diplomatic and Consular Staff in Tehran (*United States of America* v. *Iran*)	1979-1981
Delimitation of the Maritime Boundary in the Gulf of Maine Area (*Canada/United States of America*) [case referred to a Chamber]	1981-1984
Continental Shelf (*Libyan Arab Jamahiriya/Malta*)	1982-1985
Frontier Dispute (*Burkina Faso/Republic of Mali*) [case referred to a Chamber]	1983-1986
Military and Paramilitary Activities in and against Nicaragua (*Nicaragua* v. *United States of America*)	1984-1991
Application for Revision and Interpretation of the Judgment of 24 February 1982 in the Case concerning the Continental Shelf (Tunisia/Libyan Arab Jamahiriya) (*Tunisia* v. *Libyan Arab Jamahiriya*)	1984-1985
Border and Transborder Armed Actions (*Nicaragua* v. *Costa Rica*)	1986-1987
Border and Transborder Armed Actions (*Nicaragua* v. *Honduras*)	1986-1992
Land, Island and Maritime Frontier Dispute (*El Salvador/Honduras: Nicaragua intervening*) [case referred to a Chamber][1]	1986-1992
Elettronica Sicula S.p.A. (*ELSI*) (*United States of America* v. *Italy*) [case referred to a Chamber]	1987-1989
Maritime Delimitation in the Area between Greenland and Jan Mayen (*Denmark* v. *Norway*)	1988-1993
Aerial Incident of 3 July 1988 (*Islamic Republic of Iran* v. *United States of America*)	1989-1996
Certain Phosphate Lands in Nauru (*Nauru* v. *Australia*)	1989-1993
Arbitral Award of 31 July 1989 (*Guinea-Bissau* v. *Senegal*)	1989-1991
Territorial Dispute (*Libyan Arab Jamahiriya/Chad*)	1990-1994
East Timor (*Portugal* v. *Australia*)	1991-1995
Maritime Delimitation between Guinea-Bissau and Senegal (*Guinea-Bissau* v. *Senegal*)	1991-1995

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[1] The intervention of Nicaragua was admitted on 13 September 1990 (see *I.C.J. Yearbook 1990-1991*, pp. 160-174).

Title	*Dates*
Passage through the Great Belt (Finland v. *Denmark)*	1991-1992
Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. *Bahrain)*	1991-2001
Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. *United Kingdom)*	1992-2003
Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. *United States of America)*	1992-2003
Oil Platforms (Islamic Republic of Iran v. *United States of America)*	1992-
Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. *Serbia and Montenegro*[1]*)*	1993-
Gabčikovo-Nagymaros Project (Hungary/Slovakia)	1993-
Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. *Nigeria: Equatorial Guinea intervening)*[2]	1994-2002
Fisheries Jurisdiction (Spain v. *Canada)*	1995-1998
Request for an Examination of the Situation in Accordance with Paragraph 63 of the Court's Judgment of 20 December 1974 in the Nuclear Tests (New Zealand v. France) *Case*	1995
Kasikili/Sedudu Island (Botswana/Namibia)	1996-1999
Vienna Convention on Consular Relations (Paraguay v. *United States of America)*	1998
Request for Interpretation of the Judgment of 11 June 1998 in the Case concerning the Land and Maritime Boundary between Cameroon and Nigeria (Cameroon *v.* Nigeria), Preliminary Objections *(Nigeria* v. *Cameroon)*	1998-1999
Sovereignty over Pulau Ligitan and Pulau Sipadan (Indonesia/Malaysia)	1998-2002
Ahmadou Sadio Diallo (Republic of Guinea v. *Democratic Republic of the Congo)*	1998-
LaGrand (Germany v. *United States of America)*	1999-2001
Legality of Use of Force (Serbia and Montenegro[1] v. *Belgium)*	1999-
Legality of Use of Force (Serbia and Montenegro[1] v. *Canada)*	1999-
Legality of Use of Force (Serbia and Montenegro[1] v. *France)*	1999-

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[1] See footnote 1, p. 98, below.

[2] The intervention of Equatorial Guinea was admitted on 21 October 1999 (see *I.C.J. Yearbook 1999-2000*, p. 218).

Title	*Dates*
Legality of Use of Force (Serbia and Montenegro[1] v. *Germany)*	1999-
Legality of Use of Force (Serbia and Montenegro[1] v. *Italy)*	1999-
Legality of Use of Force (Serbia and Montenegro[1] v. *Netherlands)*	1999-
Legality of Use of Force (Serbia and Montenegro[1] v. *Portugal)*	1999-
Legality of Use of Force (Yugoslavia v. *Spain)*	1999
Legality of Use of Force (Serbia and Montenegro[1] v. *United Kingdom)*	1999-
Legality of Use of Force (Yugoslavia v. *United States of America)*	1999
Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. *Burundi)*	1999-2001
Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. *Uganda)*	1999-
Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. *Rwanda)*	1999-2001
Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. *Serbia and Montenegro*[1]*)*	1999-
Aerial Incident of 10 August 1999 (Pakistan v. *India)*	1999-2000
Maritime Delimitation between Nicaragua and Honduras in the Caribbean Sea (Nicaragua v. *Honduras)*	1999-
Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo v. *Belgium)*	2000-2002
Application for Revision of the Judgment of 11 July 1996 in the Case concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina *v.* Yugoslavia), Preliminary Objections *(Yugoslavia* v. *Bosnia and Herzegovina)*	2001-2003
Certain Property (Liechtenstein v. *Germany)*	2001-
Territorial and Maritime Dispute (Nicaragua v. *Colombia)*	2001-
Frontier Dispute (Benin/Niger) [case referred to a Chamber]	2002-
Armed Activities on the Territory of the Congo (New Application: 2002) (Democratic Republic of the Congo v. *Rwanda)*	2002-

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[1] See footnote 1, p. 98, below.

Title	*Dates*
Application for Revision of the Judgment of 11 September 1992 in the Case concerning the Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening) *(El Salvador* v. *Honduras)* [case referred to a Chamber]	2002-2003
Avena and Other Mexican Nationals (Mexico v. *United States of America)*	2003-2004
Certain Criminal Proceedings in France (Republic of the Congo v. *France)*	2003-
Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore)	2003-

(b) Advisory

Conditions of Admission of a State to Membership in the United Nations (Article 4 of the Charter)	1947-1948
Reparation for Injuries Suffered in the Service of the United Nations	1948-1949
Interpretation of Peace Treaties with Bulgaria, Hungary and Romania	1949-1950
Competence of the General Assembly for the Admission of a State to the United Nations	1949-1950
International Status of South West Africa	1949-1950
Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide	1950-1951
Effect of Awards of Compensation Made by the United Nations Administrative Tribunal	1953-1954
Voting Procedure on Questions relating to Reports and Petitions concerning the Territory of South West Africa	1954-1955
Judgments of the Administrative Tribunal of the ILO upon Complaints Made against Unesco	1955-1956
Admissibility of Hearings of Petitioners by the Committee on South West Africa	1955-1956
Constitution of the Maritime Safety Committee of the Inter-Governmental Maritime Consultative Organization	1959-1960
Certain Expenses of the United Nations (Article 17, paragraph 2, of the Charter)	1961-1962
Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970)	1970-1971
Application for Review of Judgement No. 158 of the United Nations Administrative Tribunal	1972-1973
Western Sahara	1974-1975

Title	*Dates*
Interpretation of the Agreement of 25 March 1951 between the WHO and Egypt	1980
Application for Review of Judgement No. 273 of the United Nations Administrative Tribunal	1981-1982
Application for Review of Judgement No. 333 of the United Nations Administrative Tribunal	1984-1987
Applicability of the Obligation to Arbitrate under Section 21 of the United Nations Headquarters Agreement of 26 June 1947	1988
Applicability of Article VI, Section 22, of the Convention on the Privileges and Immunities of the United Nations	1989
Legality of the Use by a State of Nuclear Weapons in Armed Conflict	1993-1996
Legality of the Threat or Use of Nuclear Weapons	1994-1996
Difference Relating to Immunity from Legal Process of a Special Rapporteur of the Commission on Human Rights	1998-1999
Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory	2003-2004

CHAPTER I

ORGANIZATION OF THE COURT

The organization of the International Court of Justice is governed by Articles 2-33 of the Statute of the Court and by Articles 1-18 and 32-37 of the Rules of Court.

I. MEMBERS OF THE COURT

1. Composition of the Court[1]

The Court consists of 15 Members (Statute, Art. 3, para. 1).
On 31 July 2004 the composition of the Court was as follows:

Order of precedence	*Country*	*Date of expiry of term of office*
President Shi Jiuyong	China	5 February 2012[2]
Vice-President R. Ranjeva	Madagascar	5 February 2009[2]
Judges G. Guillaume	France	5 February 2009
A. G. Koroma	Sierra Leone	5 February 2012
V. S. Vereshchetin	Russian Federation	5 February 2006
R. Higgins	United Kingdom	5 February 2009
G. Parra-Aranguren	Venezuela	5 February 2009
P. H. Kooijmans	Netherlands	5 February 2006
F. Rezek	Brazil	5 February 2006
A. S. Al-Khasawneh	Jordan	5 February 2009
T. Buergenthal	United States	5 February 2006
N. Elaraby	Egypt	5 February 2006
H. Owada	Japan	5 February 2012
B. Simma	Germany	5 February 2012
P. Tomka	Slovakia	5 February 2012

The Members of the Court are elected for nine years, one-third of the total number of judges being elected every three years; they may be re-elected (Statute, Art. 13). In the event of a vacancy, an election is held and the new judge holds office for the remainder of his predecessor's term (Statute, Arts. 14 and 15). Though replaced, Members of the Court finish any cases they have begun (Statute, Art. 13, para. 3).

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[1] For the composition of chambers, see pp. 24-25, below.

[2] The terms of office of Judges Shi and Ranjeva as President and Vice-President respectively expire in 2006.

As required by Article 7 of the Statute, the Secretary-General of the United Nations prepares for each election a list of the persons nominated in accordance with Articles 5 and 6. The election is held by the General Assembly and the Security Council of the United Nations, proceeding independently of each other and simultaneously (Statute, Arts. 8-12). The States parties to the Statute of the Court which are not members of the United Nations take part in the election by the General Assembly in the same manner as Members of the United Nations (General Assembly resolution 264 (III) of 8 October 1948; see Chap. III, pp. 100-101, below).

Members of the Court elected during the same session of the General Assembly whose terms of office begin on the same date take precedence according to seniority of age; Members elected at a previous session take precedence; in the event of immediate re-election a Member retains his former precedence (Rules, Art. 3, paras. 2-4).

The Court elects its President and Vice-President; they are both elected for three years and take precedence over the other judges (Statute, Art. 21, para. 1; Rules, Art. 3, para. 5, Arts. 10-14, Art. 18, para. 2, and Art. 32).

2. *Former Presidents and Vice-Presidents and Former Members of the Court*

The following judges served as President or Vice-President before the present holders of those offices:

1946-1949, J. G. Guerrero and J. Basdevant;
1949-1952, J. Basdevant and J. G. Guerrero[1];
1952-1955, Sir Arnold McNair and J. G. Guerrero[1];
1955-1958, G. H. Hackworth and A. H. Badawi[2];
1958-1961, H. Klaestad and Sir Muhammad Zafrulla Khan;
1961-1964, B. Winiarski and R. J. Alfaro;
1964-1967, Sir Percy Spender and V. K. Wellington Koo;
1967-1970, J. L. Bustamante y Rivero and V. M. Koretsky;

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[1] While he was Vice-President of the Court, Judge Guerrero acted as President, by virtue of Article 13, paragraphs 1 and 2, of the 1946 Rules, in the following cases: *Corfu Channel* (*United Kingdom* v. *Albania*); *Protection of French Nationals and Protected Persons in Egypt* (*France* v. *Egypt*); *Rights of Nationals of the United States of America in Morocco* (*France* v. *United States of America*); *Ambatielos* (*Greece* v. *United Kingdom*); *Anglo-Iranian Oil Co.* (*United Kingdom* v. *Iran*); *Minquiers and Ecrehos* (*France*/*United Kingdom*); *Monetary Gold Removed from Rome in 1943* (*Italy* v. *France, United Kingdom and United States of America*).

[2] While he was Vice-President of the Court, Judge Badawi acted as President, by virtue of Article 13, paragraph 1, of the 1946 Rules, in the cases concerning *Interhandel* (*Switzerland* v. *United States of America*), Interim Protection, and *Aerial Incident of 27 July 1955* (*United States of America* v. *Bulgaria*).

1970-1973, Sir Muhammad Zafrulla Khan and F. Ammoun[1];
1973-1976, M. Lachs and F. Ammoun[1];
1976-1979, E. Jiménez de Aréchaga and Nagendra Singh;
1979-1982, Sir Humphrey Waldock[2] and T. O. Elias[3];
1982-1985, T. O. Elias[4] and J. Sette-Camara;
1985-1988, Nagendra Singh and G. Ladreit de Lacharrière[5];
1988-1991, J. M. Ruda and K. Mbaye;
1991-1994, Sir Robert Jennings[6] and S. Oda[6];
1994-1997, M. Bedjaoui and S. M. Schwebel;
1997-2000, S. M. Schwebel[7] and C. G. Weeramantry[7];
2000-2003, G. Guillaume and Shi Jiuyong.

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[1] While he was Vice-President of the Court, Judge Ammoun acted as President, by virtue of Article 11 and Article 13, paragraph 1, of the then Rules of Court, in *Appeal Relating to the Jurisdiction of the ICAO Council*, *Nuclear Tests (Australia v. France), Interim Protection*, and *Nuclear Tests (New Zealand v. France), Interim Protection*.

[2] Sir Humphrey Waldock died on 15 August 1981. The functions of the Presidency were thereafter exercised by T. O. Elias as Acting President, by virtue of Article 13, paragraph 1, and Article 14 of the 1978 Rules of Court.

[3] Vice-President Elias was for a time Acting President in *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)* and in the proceedings relating to the Orders made on 20 January and 1 February 1982 in *Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America)*.

[4] Judge Elias continued to act as President in *Continental Shelf (Libyan Arab Jamahiriya/Malta)* after 5 February 1985, by virtue of Article 32, paragraph 2, of the 1978 Rules of Court.

[5] Judge Ladreit de Lacharrière died on 10 March 1987. On 6 May 1987 the Court elected Judge Mbaye to be its Vice-President for the remainder of his predecessor's term.

[6] While he was President of the Court, Sir Robert Jennings, being a national of one of the Parties, did not, in accordance with Article 32 of the Rules of Court, preside in the case concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United Kingdom)*. Vice-President Oda exercised the functions of the Presidency in that case, as well as in the case concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United States of America)*. (See *I.C.J. Yearbook 1991-1992*, p. 198.)

[7] While he was President of the Court, Judge Schwebel, being a national of one of the Parties, did not, in accordance with Article 32 of the Rules of Court, preside in the cases concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United States of America)*, *Oil Platforms (Islamic Republic of Iran v. United States of America)*, *Vienna Convention on Consular Relations (Paraguay v. United States of America)*, *LaGrand (Germany v. United States of America)* and *Legality of Use of Force (Yugoslavia v. United States of America)*. Although Article 32 was not applicable in the cases concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United Kingdom)* and *Legality of Use of Force (Serbia and Montenegro v. Belgium) (Serbia and Montenegro v. Canada) (Serbia and Montenegro v. France) (Serbia and Montenegro v. Germany) (Serbia and Montenegro v. Italy) (Serbia and Montenegro v. Netherlands) (Serbia and Montenegro v. Portugal) (Yugoslavia v. Spain) (Serbia and Montenegro v. United Kingdom)*, he did not think it appropriate to exercise the functions of the Presidency in those cases either. It was therefore the Vice-President, Judge Weeramantry, who, in accordance with Article 13, paragraph 1, of the Rules, exercised those functions.

Apart from the present judges, the following have been Members of the Court (the names of those who have died are preceded by an asterisk):

	Country	*Period of Office*
* R. Ago	Italy	1979-1995
* A. Aguilar-Mawdsley	Venezuela	1991-1995
Prince B. A. Ajibola	Nigeria	1991-1994
* R. J. Alfaro	Panama	1959-1964
* A. Alvarez	Chile	1946-1955
* F. Ammoun	Lebanon	1965-1976
* E. C. Armand-Ugon	Uruguay	1952-1961
* Ph. Azevedo	Brazil	1946-1951
* A. H. Badawi	Egypt	1946-1965
* J. Basdevant	France	1946-1964
* R. R. Baxter	United States	1979-1980
M. Bedjaoui	Algeria	1982-2001
* C. Bengzon	Philippines	1967-1976
* J. L. Bustamante y Rivero	Peru	1961-1970
* L. F. Carneiro	Brazil	1951-1955
* F. de Castro	Spain	1970-1979
* R. Córdova	Mexico	1955-1964
* Ch. De Visscher	Belgium	1946-1952
* H. C. Dillard	United States	1970-1979
* A. El-Erian	Egypt	1979-1981
A. El-Khani	Syria	1981-1985
* T. O. Elias	Nigeria	1976-1991
* J. Evensen	Norway	1985-1994
* I. Fabela	Mexico	1946-1952
L. Ferrari Bravo	Italy	1995-1997
* Sir Gerald Fitzmaurice	United Kingdom	1960-1973
C.-A. Fleischhauer	Germany	1994-2003
* I. Forster	Senegal	1964-1982
* S. A. Golunsky	USSR	1952-1953
* A. Gros	France	1964-1984
* J. G. Guerrero	El Salvador	1946-1958
* G. H. Hackworth	United States	1946-1961
G. Herczegh	Hungary	1993-2003
* Hsu Mo	China	1946-1956

* L. Ignacio-Pinto	Benin	1970-1979
Sir Robert Yewdall Jennings	United Kingdom	1982-1995
* P. C. Jessup	United States	1961-1970
* E. Jiménez de Aréchaga	Uruguay	1970-1979
* H. Klaestad	Norway	1946-1961
* F. I. Kojevnikov	USSR	1953-1961
* V. M. Koretsky	USSR	1961-1970
* S. B. Krylov	USSR	1946-1952
* M. Lachs	Poland	1967-1993
* G. Ladreit de Lacharrière	France	1982-1987
* Sir Hersch Lauterpacht	United Kingdom	1955-1960
* Sir Arnold McNair	United Kingdom	1946-1955
K. Mbaye	Senegal	1982-1991
* G. Morelli	Italy	1961-1970
* L. M. Moreno Quintana	Argentina	1955-1964
* P. D. Morozov	USSR	1970-1985
* H. Mosler	Fed. Rep. of Germany	1976-1985
* Nagendra Singh	India	1973-1988
* Ni Zhengyu	China	1985-1994
S. Oda	Japan	1976-2003
* C. D. Onyeama	Nigeria	1967-1976
* L. Padilla Nervo	Mexico	1964-1973
R. S. Pathak	India	1989-1991
* S. Petrén	Sweden	1967-1976
* Sir Benegal Rau	India	1952-1953
* J. E. Read	Canada	1946-1958
* J. M. Ruda	Argentina	1973-1991
S. M. Schwebel	United States	1981-2000
* J. Sette-Camara	Brazil	1979-1988
M. Shahabuddeen	Guyana	1988-1997
* Sir Percy C. Spender	Australia	1958-1967
* J. Spiropoulos	Greece	1958-1967
* K. Tanaka	Japan	1961-1970
* N. K. Tarassov	Russian Federation	1985-1995
* S. Tarazi	Syria	1976-1980
* Sir Humphrey Waldock	United Kingdom	1973-1981
C. G. Weeramantry	Sri Lanka	1991-2000

* V. K. Wellington Koo	China	1957-1967
* B. Winiarski	Poland	1946-1967
* Sir Muhammad Zafrulla Khan	Pakistan	1954-1961 and 1964-1973
* M. Zoričić	Yugoslavia	1946-1958

II. Judges *Ad Hoc*

If in a case the Court, or a chamber of the Court, includes upon the Bench a judge of the nationality of one of the parties, any other party may choose a person to sit as judge; similarly, if the Court or the chamber includes upon the Bench no judge of the nationality of the parties, each of these parties may choose a judge (Statute, Art. 31; Rules, Arts. 7-8, Art. 17, para. 2, Arts. 35-37, Art. 91, para. 2, and Art. 102, para. 3, Practice Direction VII). Should there be several parties in the same interest they are reckoned for this purpose as one party only (Statute, Art. 31, para. 5; Rules, Art. 36 and Art. 37, para. 2).

Since the institution of the Court, judges *ad hoc* have been chosen in the following cases (unless otherwise indicated, they held the nationality of the appointing party):

Corfu Channel (United Kingdom v. *Albania)*. Albania chose Mr. I. Daxner (Czechoslovakia), who sat upon the Bench when the preliminary objection was heard, and Mr. B. Ečer (Czechoslovakia), who sat when the case was heard on the merits and also for the assessment of amount of compensation.

Asylum (Colombia/Peru), *Request for Interpretation of the Judgment of 20 November 1950 in the Asylum Case (Colombia* v. *Peru)* and *Haya de la Torre (Colombia* v. *Peru)*. Mr. J. J. Caicedo Castilla was chosen by Colombia and Mr. L. Alayza y Paz Soldán by Peru.

Ambatielos (Greece v. *United Kingdom)*. Mr. J. Spiropoulos was chosen by Greece.

Anglo-Iranian Oil Co. (United Kingdom v. *Iran)*. Mr. K. Sandjabi was chosen by Iran.

Nottebohm (Liechtenstein v. *Guatemala)*. Mr. C. García Bauer[1] was chosen by Guatemala and Mr. P. Guggenheim (Switzerland) by Liechtenstein.

Monetary Gold Removed from Rome in 1943 (Italy v. *France, United Kingdom and United States of America)*. Mr. G. Morelli was chosen by Italy.

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[1] The Government of Guatemala had first chosen as judge *ad hoc* Mr. J. C. Herrera and subsequently Mr. J. Matos, before choosing Mr. García Bauer.

Right of Passage over Indian Territory (Portugal v. *India)*. Mr. M. Fernandes was chosen by Portugal and the Hon. M. A. C. Chagla by India.

Application of the Convention of 1902 Governing the Guardianship of Infants (Netherlands v. *Sweden)*. Mr. J. Offerhaus was chosen by the Netherlands and Mr. F. J. C. Sterzel by Sweden.

Interhandel (Switzerland v. *United States of America)*. Mr. P. Carry was chosen by Switzerland.

Aerial Incident of 27 July 1955 (Israel v. *Bulgaria)*. Mr. Justice Goitein was chosen by Israel and Mr. J. Žourek (Czechoslovakia) by Bulgaria.

Aerial Incident of 27 July 1955 (United States of America v. *Bulgaria)*. Mr. J. Žourek (Czechoslovakia) was chosen by Bulgaria.

Arbitral Award Made by the King of Spain on 23 December 1906 (Honduras v. *Nicaragua)*. Mr. R. Ago (Italy) was chosen by Honduras and Mr. F. Urrutia Holguín (Colombia) by Nicaragua.

Barcelona Traction, Light and Power Company, Limited (Belgium v. *Spain)*[1]. Mr. W. J. Ganshof van der Meersch was chosen by Belgium and Mr. F. de Castro by Spain.

South West Africa (Ethiopia v. *South Africa; Liberia* v. *South Africa)*. Sir Louis Mbanefo (Nigeria)[2] was chosen by Ethiopia and Liberia and the Hon. J. T. van Wyk by South Africa.

Northern Cameroons (Cameroon v. *United Kingdom)*. Mr. P. Beb a Don was chosen by Cameroon.

Barcelona Traction, Light and Power Company, Limited (New Application: 1962) (Belgium v. *Spain)*. Belgium chose Mr. W. J. Ganshof van der Meersch, who sat upon the Bench when the preliminary objections were heard, and Mr. W. Riphagen (Netherlands), who sat in the second phase. Spain chose Mr. E. C. Armand-Ugon (Uruguay).

North Sea Continental Shelf (Federal Republic of Germany/Denmark; Federal Republic of Germany/Netherlands). Mr. H. Mosler was chosen by the Federal Republic of Germany and Mr. M. Sørensen (Denmark) by Denmark and the Netherlands.

Appeal Relating to the Jurisdiction of the ICAO Council (India v. *Pakistan)*. Mr. Nagendra Singh was chosen by India.

Nuclear Tests (Australia v. *France)*. Sir Garfield Barwick was chosen by Australia.

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[1] Case removed from the List before the Court had occasion to sit.

[2] The Governments of Ethiopia and Liberia had first chosen as judge *ad hoc* the Hon. J. Chesson, subsequently Sir Muhammad Zafrulla Khan and then Sir Adetokunboh A. Ademola, before choosing Sir Louis Mbanefo.

Nuclear Tests (New Zealand v. *France)*. Sir Garfield Barwick (Australia) was chosen by New Zealand.

Trial of Pakistani Prisoners of War (Pakistan v. *India)*. Pakistan chose Sir Muhammad Zafrulla Khan, who sat in the proceedings on the request for interim measures up to 2 July 1973, and Mr. Muhammad Yaqub Ali Khan[1].

Western Sahara. Mr. A. Boni (Ivory Coast) was chosen by Morocco.

Aegean Sea Continental Shelf (Greece v. *Turkey)*. Mr. M. Stassinopoulos was chosen by Greece.

Continental Shelf (Tunisia/Libyan Arab Jamahiriya). Mr. E. Jiménez de Aréchaga (Uruguay) was chosen by the Libyan Arab Jamahiriya and Mr. J. Evensen (Norway) by Tunisia.

Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America) (case referred to a Chamber). Mr. M. Cohen was chosen by Canada.

Continental Shelf (Libyan Arab Jamahiriya/Malta). Mr. E. Jiménez de Aréchaga (Uruguay) was chosen by the Libyan Arab Jamahiriya. Mr. J. Castañeda (Mexico) was chosen by Malta and sat in the proceedings culminating in the Judgment on Italy's application for permission to intervene. Mr. N. Valticos (Greece) was chosen by Malta to sit when the case was heard on the merits.

Frontier Dispute (Burkina Faso/Republic of Mali) (case referred to a Chamber). Mr. F. Luchaire (France) was chosen by Burkina Faso and Mr. G. Abi-Saab (Egypt) by the Republic of Mali.

Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. *United States of America)*. Mr. C.-A. Colliard (France) was chosen by Nicaragua.

Application for Revision and Interpretation of the Judgment of 24 February 1982 in the Case concerning the Continental Shelf (Tunisia/Libyan Arab Jamahiriya) *(Tunisia* v. *Libyan Arab Jamahiriya)*. Mrs. S. Bastid (France) was chosen by Tunisia and Mr. E. Jiménez de Aréchaga (Uruguay) by the Libyan Arab Jamahiriya.

Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening) (case referred to a Chamber). Mr. N. Valticos (Greece) was chosen by El Salvador and Mr. M. Virally (France) was chosen by Honduras. Following the death of Mr. Virally, Mr. S. Torres Bernárdez (Spain) was chosen by Honduras.

Maritime Delimitation in the Area between Greenland and Jan Mayen (Denmark v. *Norway)*. Mr. P. H. Fischer was chosen by Denmark.

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[1] This case was removed from the List before the Court had occasion to hear argument on the question of its jurisdiction.

Aerial Incident of 3 July 1988 (Islamic Republic of Iran v. *United States of America).* Mr. M. Aghahosseini was chosen by the Islamic Republic of Iran[1].

Arbitral Award of 31 July 1989 (Guinea-Bissau v. *Senegal).* Mr. H. Thierry (France) was chosen by Guinea-Bissau. Following the expiry of Judge Mbaye's term of office on 5 February 1991 Senegal no longer had a judge of its nationality on the bench. It therefore chose Mr. K. Mbaye to sit as judge *ad hoc.*

Territorial Dispute (Libyan Arab Jamahiriya/Chad). Mr. J. Sette-Camara (Brazil) was chosen by the Libyan Arab Jamahiriya and Mr. G. M. Abi-Saab (Egypt) by Chad.

East Timor (Portugal v. *Australia).* Mr. A. de Arruda Ferrer-Correia was chosen by Portugal. Following his resignation, on 14 July 1994, Mr. K. J. Skubiszewski (Poland) was chosen by Portugal. Sir Ninian Stephen was chosen by Australia.

Passage through the Great Belt (Finland v. *Denmark).* Mr. B. Broms was chosen by Finland and Mr. P. H. Fischer by Denmark.

Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. *Bahrain).* Mr. J. M. Ruda (Argentina) was chosen by Qatar. Following the death of Mr. Ruda, Mr. S. Torres Bernárdez (Spain) was chosen by Qatar. Mr. N. Valticos (Greece) was chosen by Bahrain. He resigned for health reasons as from the end of the jurisdiction and admissibility phase of the case. Bahrain subsequently chose Mr. M. Shahabuddeen (Guyana). After the resignation of Mr. Shahabuddeen, Bahrain chose Mr. Yves L. Fortier (Canada) to sit as judge *ad hoc.*

Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. *United Kingdom).* Mr. A. S. El-Kosheri (Egypt) was chosen by the Libyan Arab Jamahiriya. Judge Higgins having recused herself, the United Kingdom chose Sir Robert Jennings to sit as judge *ad hoc.* The latter has been sitting as such in the phase of the proceedings concerning jurisdiction and admissibility.

Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. *United States of America).* Mr. A. S. El-Kosheri (Egypt) was chosen by the Libyan Arab Jamahiriya.

Oil Platforms (Islamic Republic of Iran v. *United States of America).* Mr. F. Rigaux (Belgium) was chosen by the Islamic Republic of Iran.

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[1] Case removed from the List before the Court held occasion to hear argument on the preliminary objections raised by the United States.

Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. *Serbia and Montenegro*[1]*)*. Sir Elihu Lauterpacht (United Kingdom) was chosen by Bosnia and Herzegovina. Following his resignation, on 22 February 2002, Mr. Ahmed Mahiou (Algeria) was chosen by Bosnia and Herzegovina. Mr. M. Kreća was chosen by Serbia and Montenegro[1].

Gabčíkovo-Nagymaros Project (Hungary/Slovakia). Mr. K. J. Skubiszewski (Poland) was chosen by Slovakia.

Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. *Nigeria: Equatorial Guinea intervening)*. Mr. K. Mbaye (Senegal) was chosen by Cameroon and Prince B. A. Ajibola by Nigeria.

Fisheries Jurisdiction (Spain v. *Canada)*. Mr. S. Torres Bernárdez was chosen by Spain and Mr. M. Lalonde by Canada.

Request for an Examination of the Situation in Accordance with Paragraph 63 of the Court's Judgment of 20 December 1974 in the Nuclear Tests (New Zealand *v.* France) *Case*. Sir Geoffrey Palmer was chosen by New Zealand.

Request for Interpretation of the Judgment of 11 June 1998 in the Case concerning the Land and Maritime Boundary between Cameroon and Nigeria (Cameroon *v.* Nigeria), Preliminary Objections *(Nigeria* v. *Cameroon)*. Prince B. A. Ajibola was chosen by Nigeria and Mr. K. Mbaye (Senegal) by Cameroon.

Sovereignty over Pulau Ligitan and Pulau Sipadan (Indonesia/Malaysia). Mr. M. Shahabuddeen (Guyana) was chosen by Indonesia. Following the resignation of Mr. Shahabuddeen, Mr. Thomas Franck (United States of America) was chosen by Indonesia. Mr. C. G. Weeramantry (Sri Lanka) was chosen by Malaysia.

Ahmadou Sadio Diallo (Republic of Guinea v. *Democratic Republic of the Congo)*. Mr. Mohammed Bedjaoui (Algeria) was chosen by the Republic of Guinea and Mr. Auguste Mampuya Kanunk'A-Tshiabo by the Democratic Republic of the Congo. Following the resignation of Mr. Bedjaoui, on 10 September 2002, Mr. Ahmed Mahiou (Algeria) was chosen by the Republic of Guinea.

Legality of Use of Force (Serbia and Montenegro[1] v. *Belgium) (Serbia and Montenegro*[1] v. *Canada) (Serbia and Montenegro*[1] v. *France) (Serbia and Montenegro*[1] v. *Germany) (Serbia and Montenegro*[1] v. *Italy) (Serbia and Montenegro*[1] v. *Netherlands) (Serbia and Montenegro*[1] v. *Portugal) (Yugoslavia* v. *Spain) (Serbia and Montenegro*[1] v. *United Kingdom) (Yugoslavia* v. *United States of America)*. In all ten cases Serbia and Montenegro [Yugoslavia] chose Mr. M. Kreća; in the case of *Serbia and Montenegro*[1] v. *Belgium*, Mr. P. Duinslaeger was chosen by Belgium; in the case of *Serbia and Montenegro*[1] v. *Canada*, Mr. M. Lalonde was chosen by Canada; in the case of *Serbia and Montenegro*[1] v. *Italy*, Mr. G. Gaja was chosen by Italy and in the case of *Yugoslavia* v. *Spain*, Mr. S. Torres Bernárdez was chosen by Spain. These have been sitting as such during the examination of Serbia and Montenegro's requests for the indication of provisional measures. In March 2000 Portugal indicated its intention to appoint a judge *ad hoc*. With regard to the phase of the procedure concerning the preliminary objections, the Court, taking into account the presence upon the Bench of judges of British, Dutch and French nationality, decided that the judges *ad hoc* chosen by the respondent States should not sit during that phase. The Court observed that this decision did not in any way prejudice the question whether, if the Court should reject the preliminary objections of the respondents, judges *ad hoc* might sit in subsequent stages of the cases.

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[1] See footnote 1, p. 98, below.

Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. *Burundi) (Democratic Republic of the Congo* v. *Uganda) (Democratic Republic of the Congo* v. *Rwanda)*. In all three cases Mr. Joe Verhoeven (Belgium) was chosen by the Democratic Republic of the Congo; in the case of *Democratic Republic of the Congo* v. *Burundi*, Mr. J. J. A. Salmon (Belgium) was chosen by Burundi; in the case of *Democratic Republic of the Congo* v. *Uganda* Mr. James L. Kateka (Tanzania) was chosen by Uganda; and, in the case of *Democratic Republic of the Congo* v. *Rwanda*, Mr. C. J. R. Dugard (South Africa) was chosen by Rwanda.

Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. *Serbia and Montenegro*[1]*)*. Mr. B. Vukas was chosen by Croatia and Mr. M. Kreća by Serbia and Montenegro.

Aerial Incident of 10 August 1999 (Pakistan v. *India)*. Mr. S. S. U. Pirzada was chosen by Pakistan and Mr. B. P. J. Reddy by India.

Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo v. *Belgium)*. Mr. Sayeman Bula-Bula was chosen by the Democratic Rebublic of the Congo and Mrs. Christine Van den Wyngaert by Belgium.

Certain Property (Liechtenstein v. *Germany)*. Mr. Ian Brownlie (United Kingdom) was chosen by Liechtenstein. Following his resignation, on 25 April 2002, Sir Franklin Berman (United Kingdom) was chosen by Liechtenstein. Mr. Carl-August Fleischhauer was chosen by Germany, Judge Simma being disqualified from sitting.

Maritime Delimitation between Nicaragua and Honduras in the Caribbean Sea (Nicaragua v. *Honduras)*. Mr. Giorgio Gaja (Italy) was chosen by Nicaragua and Mr. Julio González Campos (Spain) by Honduras.

Application for Revision of the Judgment of 11 July 1996 in the Case concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina *v.*

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[1] See footnote 1, p. 98, below.

Yugoslavia), Preliminary Objections *(Yugoslavia* v. *Bosnia and Herzegovina)*. Mr. Vojin Dimitrijević was chosen by Yugoslavia. Mr. Sead Hodžić was chosen by Bosnia and Herzegovina. Following the resignation of Mr. Hodžić, on 9 April 2002, Bosnia and Herzegovina chose Mr. Ahmed Mahiou (Algeria).

Territorial and Maritime Dispute (Nicaragua v. *Colombia)*. Mr. Yves L. Fortier was chosen by Colombia.

Armed Activities on the Territory of the Congo (New Application: 2002) (Democratic Republic of the Congo v. *Rwanda)*. Mr. Jean-Pierre Mavungu Mvumbi-di-Ngoma was chosen by the Democratic Republic of the Congo and Mr. John Dugard (South Africa) by Rwanda.

Frontier Dispute (Benin/Niger). Mr. Mohamed Bennouna (Morocco) was chosen by Benin and Mr. Mohammed Bedjaoui (Algeria) by Niger.

Application for Revision of the Judgment of 11 September 1992 in the Case concerning the Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening) *(El Salvador* v. *Honduras)*. Mr. Felipe H. Paolillo (Uruguay) was chosen by El Salvador and Mr. Santiago Torres Bernárdez (Spain) by Honduras.

Avena and Other Mexican Nationals (Mexico v. *United States of America)*. Mr. Bernardo Sepúlveda was chosen by Mexico.

Certain Criminal Proceedings in France (Republic of the Congo v. *France)*. Mr. Jean-Yves De Cara (France) was chosen by the Republic of the Congo.

Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore). Mr. Christopher J. Dugard (South Africa) was chosen by Malaysia.

III. CHAMBERS

1. Chamber of Summary Procedure

The Statute (Art. 29) provides that, with a view to the speedy despatch of business, the Court shall form annually a Chamber composed of five judges which, at the request of the parties, may hear and determine cases by summary procedure. The Court also selects two judges for this Chamber for the purpose of replacing judges who find it impossible to sit. Under Article 15 of the Rules of Court, the President and Vice-President are members of this Chamber ex officio, the other members and the substitutes being elected. The Chamber of Summary Procedure has never as yet been called upon to meet.

The Chamber of Summary Procedure is at present composed as follows: President Shi Jiuyong; Vice-President Ranjeva; Judges Parra-Aranguren, Al-Khasawneh and Buergenthal, members; Judges Elaraby and Owada, substitute members.

2. *Chambers Provided for in Article 26, Paragraph 1, of the Statute*

The Statute (Art. 26, para. 1) provides also that the Court may from time to time form one or more chambers, composed of three or more judges, as the Court may determine, for dealing with particular categories of cases: for example, labour cases and cases relating to transit and communications. Cases are heard and determined by these chambers if the parties so request.

In the past the Court has considered the question of the possible formation of a chamber to deal with environmental matters. On those occasions it took the view that it was not yet necessary to set up a standing special chamber, emphasizing that it was able to respond rapidly to requests for the constitution of a so-called "*ad hoc*" chamber (pursuant to Article 26, paragraph 2, of the Statute) which could deal also with any environmental case.

In view of the developments in the field of environmental law and protection which have taken place in the last few years, and considering that it should be prepared to the fullest possible extent to deal with any environmental case falling within its jurisdiction, the Court, in July 1993, deemed it appropriate to establish a seven-member Chamber for Environmental Matters to deal with such cases as parties might refer to it in accordance with Article 26 of the Statute. The Chamber, whose current mandate runs to February 2006, is composed as follows: President Shi Jiuyong; Vice-President Ranjeva; and Judges Guillaume, Kooijmans, Rezek, Simma and Tomka.

3. *Chambers Formed under Article 26, Paragraph 2, of the Statute*

The Statute (Art. 26, para. 2) provides that the Court may form a chamber for dealing with a particular case, the number of judges constituting such a chamber being determined by the Court with the approval of the parties.

Chambers of this kind have been formed at the joint request of the parties to deal with four cases. They are listed below with an indication of the date on which the respective Chamber was constituted and the names of its members.

Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America): constituted on 20 January 1982; Judges Ago (*President*), Gros, Mosler, Schwebel; Judge *ad hoc* Cohen.

Frontier Dispute (Burkina Faso/Republic of Mali): constituted on 3 April 1985; Judges Bedjaoui (*President*), Lachs, Ruda; Judges *ad hoc* Luchaire, Abi-Saab.

Elettronica Sicula S.p.A. (ELSI) (United States of America v. *Italy)*: constituted on 2 March 1987 with the following composition – Judges Nagendra Singh (*President*), Oda, Ago, Schwebel, Sir Robert Jennings. Following the death of Judge Nagendra Singh the Court, on

20 December 1988, elected President Ruda to succeed him as member and (ex officio) President of the Chamber.

Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua [as from 13 September 1990] *intervening)*: constituted on 8 May 1987 with the following composition — Judges Oda, Sette-Camara, Sir Robert Jennings; Judges *ad hoc* Valticos, Virally. The Chamber elected Judge Sette-Camara to be its President. After the death of Judge Virally, Mr. Torres Bernárdez was chosen to sit as judge *ad hoc* in his place, and on 13 December 1989 the Court declared the Chamber to be composed as follows: Judges Sette-Camara (*President*), Oda, Sir Robert Jennings; Judges *ad hoc* Valticos, Torres Bernárdez. On 7 February 1991 Judges Sir Robert Jennings and Oda exchanged places in the order of precedence within the Chamber owing to their election to be, respectively, the Court's President and Vice-President.

Frontier Dispute (Benin/Niger): constituted on 27 November 2002 with the following composition — Judges Guillaume (*President*), Ranjeva, Kooijmans; Judges *ad hoc* Bedjaoui, Bennouna.

Application for Revision of the Judgment of 11 September 1992 in the Case concerning the Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening) *(El Salvador v. Honduras)*: constituted on 27 November 2002 with the following composition — Judges Guillaume (*President*), Rezek, Buergenthal; Judges *ad hoc* Torres Bernárdez, Paolillo.

4. Provisions in the Rules relating to Chambers

Articles 15-18 and 90-93 of the Rules of Court contain the provisions relating to chambers.

IV. ASSESSORS

Article 30, paragraph 2, of the Statute and Article 9 of the Rules of Court provide that the Court may, either *proprio motu* or upon a request made not later than the closure of the written proceedings, decide, for the purpose of a contentious case or request for advisory opinion, to appoint assessors to sit with it, without the right to vote. The chambers also have the power to appoint assessors.

These provisions have not been applied up to the present.

V. THE REGISTRAR

The Court appoints its Registrar (Statute, Art. 21, para. 2; Rules, Art. 22).

The present Registrar is Mr. Philippe Couvreur (see Chap. V, p. 186, below).

VI. PRIVILEGES AND IMMUNITIES

Article 19 of the Statute provides: "The Members of the Court, when engaged on the business of the Court, shall enjoy diplomatic privileges and immunities."

In the Netherlands, pursuant to an exchange of correspondence between the President of the Court and the Minister for Foreign Affairs, dated 26 June 1946, they enjoy, in a general way, the same privileges, immunities, facilities and prerogatives as Heads of Diplomatic Missions accredited to Her Majesty the Queen of the Netherlands (*I.C.J. Acts and Documents No. 5*, pp. 200-207). In addition, in accordance with the terms of a letter dated 26 February 1971 from the Minister for Foreign Affairs of the Netherlands, the President of the Court takes precedence over the Heads of Mission, including the Dean of the Diplomatic Corps, who is immediately followed by the Vice-President of the Court and thereafter the precedence proceeds alternately between Heads of Mission and the Members of the Court (*ibid.*, pp. 210-213).

By resolution 90 (I) of 11 December 1946 (*ibid.*, pp. 206-211), the General Assembly of the United Nations approved the agreement concluded with the Government of the Netherlands in June 1946 and recommended that ". . . if a judge, for the purpose of holding himself permanently at the disposal of the Court, resides in some country other than his own, he should be accorded diplomatic privileges and immunities during the period of his residence there" and that "... judges should be accorded every facility for leaving the country where they may happen to be, for entering the country where the Court is sitting, and again for leaving it. On journeys in connection with the exercise of their functions, they should, in all countries through which they may have to pass, enjoy all the privileges, immunities and facilities granted by these countries to diplomatic envoys."

The same resolution contains also a recommendation calling upon Members of the United Nations to recognize and accept United Nations laissez-passer issued to the judges by the Court. Such laissez-passer have been issued since 1950. They are similar in form to those issued by the Secretary-General of the United Nations.

Furthermore, Article 32, paragraph 8, of the Statute provides that the "salaries, allowances and compensation" received by judges "shall be free of all taxation".

CHAPTER II

BIOGRAPHIES OF JUDGES

Biographies of judges who held office in the period 1 August 2003 to 31 July 2004 will be found below.

I. MEMBERS OF THE COURT ON 31 JULY 2004

President SHI Jiuyong

(Member of the Court since 6 February 1994; re-elected as from
6 February 2003; Vice-President of the Court from 2000 to 2003;
President since 6 February 2003)

Born in Zhejiang, China, on 9 October 1926.

B.A. in Government and Public Law, St. John's University, Shanghai (1948); M.A. in International Law, Columbia University, New York, United States of America (1951); research in international law at Columbia University, New York (1951-1954).

Assistant Research Fellow in International Law, Institute of International Relations, Beijing, China (1956-1958). Senior Lecturer, Associate Professor of International Law, Foreign Affairs College, Beijing (1958-1964). Research Fellow in International Law, Institute of International Law, Beijing (1964-1973). Research Fellow in International Law, Institute of International Studies, Beijing (1973-1980). Professor of international Law, Foreign Affairs College, Beijing (1984-1993). Professor of Law, Foreign Economic Law Training Centre, Ministry of Justice of the People's Republic of China, Beijing (1987-1988). Honorary Professor, East China University of Politics and Law, Shanghai (since 2001).

Adviser, Honorary President (since 2004), Chinese Society of International Law, Beijing. Council member, Institute of Hong Kong Law of the Chinese Law Society, Beijing. Member, American Society of International Law. Member, Advisory Board of *The Global Community: Yearbook of International Law and Jurisprudence*.

Legal Adviser, Ministry of Foreign Affairs, People's Republic of China (1980-1993). Legal Adviser, Office of the Chinese Senior Representative, Sino-British Joint Liaison Group (on the question of Hong Kong) (1985-1993). Legal Adviser, Chinese Centre of Legal Consultancy, Beijing (1989-1993). Member, Standing Committee, Beijing Committee (1988-1993), and member, Eighth National Committee (1993), Chinese People's Political Consultative Conference.

Legal Adviser, Chinese delegation to the 1980 Annual Meeting of the Boards of Governors of the International Monetary Fund and the

International Bank for Reconstruction and Development. Legal Adviser, delegation of the Ministry of Finance of the People's Republic of China for the formal visit to the International Bank for Reconstruction and Development (1980). Adviser, Chinese delegation to the thirty-fifth session of the General Assembly of the United Nations and China's Alternate Representative to the Sixth Committee at that session. Adviser, Chinese delegation to the thirty-sixth, thirty-seventh and thirty-eighth sessions of the United Nations General Assembly and China's delegate to the Sixth Committee at the same sessions (1981-1983). Delegate, Chinese delegation to the sessions of the Asian-African Legal Consultative Committee in 1981, 1985 and 1993. Legal Adviser, Chinese delegation to the talks between the Government of China and the Asian Development Bank on the question of China's membership in the Bank (1986). Legal Adviser of the Chinese side, Working Group of the Sino-British Negotiations on the question of Hong Kong (1984). Legal Adviser of the Chinese side, Sino-British Joint Liaison Group (on Hong Kong), plenary sessions (1985-1993). Delegate, Chinese delegation, legal consultations between the Ministry of Foreign Affairs of the People's Republic of China and the Department of State of the United States of America (1983 and 1984). Delegate, Chinese delegation, negotiations between the Government of the People's Republic of China and the Government of the United States of America on Mutual Promotion and Protection of Investment Agreement (1983 and 1984). Representative of the International Law Commission to the forty-fifth session of the United Nations General Assembly (1990). Expert from China, Senior Legal Experts Meetings on Review of Montevideo Programme, United Nations Environment Programme, 5-6 July 1991 at Geneva and 5-7 September 1991 at Nairobi. Representative of the International Law Commission to the thirtieth meeting of the Asian-African Legal Consultative Conference, Cairo, 22-27 April 1991. Legal Adviser to the Chinese delegation, Disarmament Conference, November 1991 to August 1992.

Member (1987-1993), Rapporteur (1988) and Chairman (1990) of the International Law Commission.

Member, Foreign Economic and Trade Arbitration Commission, China Council for the Promotion of International Trade (1984-1988). Member of the Steering Committee on revision of the Hague Convention of 1907 on Pacific Settlement of International Disputes of the Permanent Court of Arbitration (1994-1997).

Taught general course of international law, Foreign Affairs College, Beijing (1958-1963). Taught general course of international economic law, Department of Law, Peking University (1980-1985). Taught general course of international economic law, Foreign Economic Law Training Centre, Ministry of Justice of the People's Republic of China (1988).

Lectures on international financial institutions, National Bureau of Oceanography, the People's Republic of China (1986). Lectures on principles of international law relating to the new international economic order, Department of Law, Peking University (1988). Lectures on protection of private foreign investment (in English), the Hague Academy of International Law, Regional Programme, Beijing (1987). Lecture on the Sino-British Joint Declaration on the question of Hong Kong (in English), Graduate Institute of International Studies, Geneva (1988). Lecture on autonomy in international law and the case of the future Hong Kong Special Administrative Region (in English), International Law Seminar, United Nations Office at Geneva (1988). Lecture on "Nationality of Hong Kong Residents: Present and Future", Graduate Studies, Foreign Affairs College (1988). Lecture on certain issues relating to the legal status of the future Hong Kong Special Administrative Region, Graduate Studies, Department of Law, Peking University (1989). Lectures on international trade regulation, Foreign Service Training Programme of the Ministry of Foreign Affairs of the People's Republic of China (1985 and 1986). Lectures on problems of international economic law, Department of Law, Chinese People's University, Beijing (1987). Chairman, panel discussions on the new international economic order, Beijing Conference on the Law of the World, World Peace through Law (1990). Participant, Symposium on the International Law of Arms Control and Disarmament, held at Geneva (February 1991). Lectures on the International Law Commission, Graduate Studies, Department of Law, Peking University (March 1991). Lectures on selected topics of international economic law, Graduate Studies, Foreign Affairs College (September-October 1991). Participant in the Seminar on the Draft Code of Crimes and International Criminal Jurisdiction, sponsored by the Foundation for the Establishment of an International Criminal Court and International Criminal Law Commission, Talloires, France (May 1991). Lectures on bilateral investment protection agreements (in English), International Law Seminar, United Nations Office at Geneva (June 1992). Participant, Symposium on Teaching, Dissemination and Research of International Law in Developing Countries, Beijing, 1992.

Author of numerous publications on international law.

Vice-President Raymond RANJEVA

(Member of the Court since 6 February 1991; re-elected as from 6 February 2000; Vice-President of the Court since 6 February 2003)

Born in Antananarivo, Madagascar, on 31 August 1942.

Bachelor's degree in law (1965), University of Madagascar, Antananarivo. *Diplôme* from the Madagascar National School of Administration (1966). Trainee in the Judicial Division of the Conseil d'Etat, Paris (1965-1966). *Diplôme* d'études supérieures de sciences politiques, University of Paris, Faculty of Law and Economic Science (1966). *Diplôme* d'études supérieures de droit public, University of Madagascar (1967). Doctorate of Law, University of Paris II (thesis: "La succession d'organisations internationales en Afrique"). *Agrégé* of the Faculties of Law and Economics, Public Law and Political Science section, Paris (1972).

Doctor *honoris causa* of the Universities of Limoges and Strasbourg. Laureate of the University of Madagascar, of the National Association of Doctors of Law and of the Madagascar National School of Administration.

Civil Administrator (1966). Assistant (1966-1972), Lecturer (1972) and Professor (1981-1991) at the University of Madagascar. Professor at the Madagascar Military Academy and at the Madagascar National School of Administration. Director of the Public Law and Political Science Study Centre. Dean of the Faculty of Law, Economics, Management and Social Sciences (1982-1986); reappointed in 1986. First Rector of the University of Antananarivo (1988-1990). Associate or visiting lecturer at several universities abroad: University of Aix-Marseille III, Bordeaux I, Paris I (Panthéon-Sorbonne), Paris II (Panthéon-Assas), the Institute of Advanced International Studies, La Réunion and Burundi, and the Free University of Brussels. Director of the French-speaking research seminar at the Hague Academy of International Law (1987); gave a course at the Hague Academy of International Law in 1997. Member (Ouagadougou, 1988) and President (Cotonou, 1992) of the Board of *Agrégation* Examiners of the African and Malagasy Council on Higher Education.

Conciliator at the World Bank International Centre for Settlement of Investment Disputes since 1970. Member of Malagasy delegations to several international conferences: Third United Nations Conference on the Law of the Sea; Preparatory Commission for the International Sea-bed Authority and the Law of the Sea Tribunal; United Nations General Assembly (1979-1990); Non-Aligned Countries (1979); Conference of States which use French (1987); Head of the Malagasy delegation to the United Nations Conference on Succession of States in respect of Treaties, Vienna (1976-1977); Member of the Malagasy delegation responsible for negotiating the revision of the co-operation agreements with France (1973); First Vice-President for Africa of the International Conference of French-Speaking Faculties of Law and Political Science (1987-1991).

Counsel to the Republic of Mali in the case concerning the *Frontier Dispute (Burkina Faso/Republic of Mali)*. Consultant for Madagascar on the amicable settlement of the transfer to the State of the activities of Eau-Electricité de Madagascar and Electricité de France (1973) and in the case of SEDITEX INTERNATIONAL GmbH Hamburg/Republic of Madagascar.

Co-opted Member and Arbitrator of the Court of Arbitration for Sport.

Member and Vice-President of the Malagasy Academy of Sciences, Literature and Arts (1974); President of the ethics and political science section (1976-1991). Managing Director of JURECO: legal, economic and financial databank – research and advisory bodies (1986-1990). Editor of the periodical *Lettre mensuelle de Jureco* (1986-1988).

Member of the Board of the French Society of International Law. Member of the Quebec Society of International Law. Member of the

Governing Body of the African Society of International and Comparative Law. Member of the Scientific Council of the Agence universitaire de la Francophonie (AUPELF-UREF). Associate Member of the Institute of International Law.

Member of the National Constitutional Committee (1975). Founding Member of the Malagasy Human Rights Committee (1971). Member of the Pontifical Council for Justice and Peace. Legal adviser to the Catholic Bishops Conference, Madagascar. Secretary-General of the Malagasy Legal Studies Society.

Commandeur of the National Order of Madagascar. Chevalier of the Madagascar Order of Merit. Officer of the National Order of Mali. Six Honours.

Author of numerous books, essays, articles and of addresses at several conferences.

Judge Gilbert GUILLAUME

(Member of the Court since 14 September 1987;
re-elected as from 6 February 1991 and from 6 February 2000;
President of the Court from 2000 to 2003)

Born in Bois-Colombes, France, on 4 December 1930.

Licence (Bachelor's degree) in law, University of Paris. Diplôme from the Paris Institute of Political Studies; Diplôme d'études supérieures d'économie politique et de science économique (Diploma of Advanced Studies in Political Economy and Economic Science), University of Paris.

Alumnus of the Ecole nationale d'administration.

Member of the Council of State, as Auditeur (1957), then Maître des Requêtes (1963), and most recently Councillor of State (1981-1996).

Legal Adviser to the State Secretariat for Civil Aviation (1968-1979); French Representative on the Legal Committee of the International Civil Aviation Organization (ICAO) (1968-1979) and Chairman of the Committee (1971-1975); delegate to the diplomatic conferences on the suppression of the unlawful seizure of aircraft (The Hague, 1970), the suppression of unlawful acts against the safety of civil aircraft (Montreal, 1971) and air safety (Rome, 1973); President of the Diplomatic Conference on the Liability of the Carrier (Montreal, 1975); Head of the French delegations to the diplomatic conferences on the liability of the carrier vis-à-vis third parties (Montreal, 1978) and the non-use of force against civil aircraft (Montreal, 1984).

Chairman of the Conciliation Commission, Organisation for Economic Co-operation and Development (1973-1978); Member of the European Space Agency Appeals Board (1975-1978); Director of Legal Affairs, Organisation for Economic Co-operation and Development (1979).

Director of Legal Affairs, Ministry of Foreign Affairs (1979-1987).

Counsel for France in the arbitration proceedings between France and the United States over the Franco-American air agreement (1978); Agent for France in the arbitration proceedings between France and Canada over the Franco-Canadian fisheries agreement (1986); Agent for France in numerous cases before the Court of Justice of the European Communities and the European Commission and Court of Human Rights. French Representative on the Central Commission for the Navigation of the Rhine (1979-1987); Chairman of the Commission (1981-1982); French Representative on the Asian-African Legal Consultative Committee (1980-1987).

French delegate to the General Assembly of the United Nations (Sixth Committee) (1982-1987); Head of the French delegation to the Third United Nations Conference on the Law of the Sea (1982), the United Nations Conference on Succession of States in respect of State Property, Archives and Debts (Vienna, 1983) and the United Nations Conference on the Law of Treaties between States and International Organizations or between International Organizations (Vienna, 1986).

Member of the Permanent Court of Arbitration (since 1980). Member of the Court of Arbitration of the Organization for Security and Co-operation in Europe (OSCE). Designated arbitrator by the International Telecommunications Satellite Organization (INTELSAT), the International Chamber of Commerce and the International Centre for the Settlement of Investment Disputes (ICSID).

President of the French branch of the International Law Association (ILA). Member of the Institute of International Law. Vice-President of the French Society for International Law. Honorary Chairman of the French Society for Air and Space Law. Member of the Académie de marine. Member of the Académie de l'air et de l'espace. Member of the International Academy of Comparative Law. Member of the Scientific Board of the *Revue générale de droit international public* and of the Board of Directors of the *Annuaire français de droit international*. Chairman of the Board of Directors of the *Revue française de droit aérien et spatial*. President of the Institute of Air and Space Law of Leiden University.

Author of numerous works and articles. Has given a course on "Terrorism and International Law" at the Hague Academy of International Law ("Terrorisme et droit international", *Recueil des cours*, Vol. 215, 1989). Author of a work on *Les grandes crises internationales et le droit* (1994) and of a book entitled *La Cour internationale de Justice à l'aube du XXI^{ème} – Le regard d'un juge* (2003).

Judge Abdul G. KOROMA

(Member of the Court since 6 February 1994; re-elected as from 6 February 2003)

Born in Freetown, Sierra Leone.

LL.M (Honours), Kiev State University; Master of Philosophy (International Law), King's College, University of London; Hon. LL.D., University of Sierra Leone; Barrister-at-Law, Honorary Bencher, Honourable Society of Lincoln's Inn, London.

Joined the Government service of Sierra Leone in 1964 and the Ministry of Foreign Affairs in 1969. As a Barrister and Legal Practitioner of the High Court of Sierra Leone, was appointed State Counsel and Special Adviser to the Attorney-General and Minister of Justice. Served as Legal Adviser to the Permanent Mission of Sierra Leone to the United Nations. Served as Ambassador Extraordinary and Plenipotentiary of Sierra Leone to the United Nations, New York, while concurrently accredited as High Commissioner of Sierra Leone to Jamaica and Trinidad and Tobago, and Ambassador to the Republic of Korea (Seoul) and Cuba (1981-1985). Served as Ambassador Extraordinary and Plenipotentiary to Belgium, France, Luxembourg and the Netherlands while concurrently accredited to the European Communities and to the United Nations Educational, Scientific and Cultural Organization (Unesco) (1985-1988). Served as Ambassador Extraordinary and Plenipotentiary of Sierra Leone to the Organization of African Unity (OAU) with concurrent accreditation to Ethiopia, Kenya, the United Republic of Tanzania and Zambia (1988-1992).

As delegate to the General Assembly, served on the Sixth Committee (Legal) from 1977 to 1994 and was elected Chairman. Also served as delegate of Sierra Leone to the following United Nations bodies: the Special Committee on the Review of the Charter and on the Strengthening of the Role of the Organization; the United Nations Commission on International Trade Law (UNCITRAL); the United Nations Committee on the Peaceful Uses of Outer Space; the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law; served as Chairman of the United Nations Special Committee on the granting of independence to colonial countries and peoples (Committee of 24); headed various United Nations missions on the observance of the exercise of the right of self-determination in various non-self-governing territories.

Represented Sierra Leone at many plenipotentiary conferences, including the United Nations Conference on the Succession of States in respect of Property, Debts and Archives, and was a signatory of the Convention; the Third United Nations Conference on the Law of the Sea (UNCLOS III) and Chairman of the African Group at the Conference. In that capacity, was closely associated with the elaboration of some of the key provisions of the resulting Convention. Was a signatory of the Convention.

Played an active role in and contributed to the elaboration of various contemporary legal instruments. Member of the International Law Commission (January 1982-1994), and Chairman of the Commission during its forty-third session (1991). Former Chairman of the Committee mandated to elaborate a Draft Statute for an International Criminal Court. As a member of the International Law Commission, was an active participant and contributor to the codification and progressive development of such important international legal instruments as the Draft Code of Crimes against Peace and Security of Mankind; Relations between States and International Organizations; the Jurisdictional Immunities of States and their Property; the Law of State Responsibility; the proposed Statute of an International Criminal Court; and the Law of the Non-Navigational Uses of International Watercourses; the draft articles on most-favoured-nation clauses; the articles on the status of the diplomatic courier and the diplomatic bag not accompanied by diplomatic courier, and of the optional protocols thereto.

Contributions to other major areas of international law, including the law of self-determination, human rights law, international humanitarian law, and the peaceful settlement of disputes; has written and lectured on these subjects. Served as expert consultant to the International Committee of the Red Cross (ICRC) at Geneva on the implementation of and respect for international humanitarian law. Has delivered lectures on these topics in universities in various countries, including Belgium, Cameroon, Canada, China, Ethiopia, Germany, Greece, India, Japan, Malta, Norway, Sweden, Switzerland, the United Republic of Tanzania and the United States of America.

Participated in conferences, symposiums and seminars on international law, including those held by the International Ocean Institute (Malta and Halifax, Nova Scotia); the International Law Institute (Hawaii); the International Criminal Jurisdiction (Talloires); the International Institute of Higher Studies in Criminal Sciences; Centre for International Studies, New York University School of Law; the Asian-African Legal Consultative Committee. Also served as external examiner in international law for Ph.D. candidates at the University of Dalhousie, Halifax, Nova Scotia, Canada.

Member of the American Society of International Law; Member, Planning Council of the International Ocean Institute (Halifax and Malta); Member and Vice-President of the African Association of International and Comparative Law; Vice-President of the African Society of International and Comparative Law; President, Henri Dunant Centre for Humanitarian Dialogue (Geneva); Member of the Board, University of Pretoria (South Africa). Associate Member, Institute of International Law. Member of the Board of Editors, *Yearbook of International Humanitarian Law*, Asser Institute.

The Order of Commander of Rokel was awarded by the Government of Sierra Leone for outstanding professional service (1991).

Author of a thesis on the *Settlement of Territorial and Boundary Disputes in Africa* (University of London). Among articles published: "Humanitarian Intervention and Contemporary International Law", *Swiss Review of International and European Law*, No. 4 (1995); "The Peaceful Settlement of International Disputes", *Netherlands International Review*, Vol. XLIII, 1996/7; "50th Anniversary of the Universal Declaration of Human Rights: Human Rights and International Humanitarian Law", *International Review of the Red Cross*, 1998; "The Influence of the Universal Declaration of Human Rights in Africa – Fifty Years after Its Adoption – A Legal Perspective", *Africa Legal Aid Quarterly*, 1998; "International Justice in Relation to the International

Court of Justice", *Thesaurus Acroasium*, Vol. XXVI, Thessaloniki; "Implementation of the Law of the Sea Convention through Its Institutions: An Overview", in D. Vidas and W. Østreng (eds.), *Order for the Oceans at the Turn of the Century*; "The Humanitarian Consequences of Small Arms Proliferation", Paper delivered under the auspices of the Henry Dunant Centre for Humanitarian Dialogue; "The Future of the Common Heritage of Mankind", *1982 Convention on the Law of the Sea*, published by the Law of the Sea Institute, University of Hawaii, Honolulu; "Provisional Measures in Disputes between African States before the International Court of Justice", in *The International Legal System in Quest of Equity and Universality, Liber Amicorum Georges Abi-Saab*, ed. by Laurence Boisson de Chazournes and Vera Gowlland-Debbas, 2001; "Social Justice and the Role of an International Judge", Paper delivered at the Colloquium on Social Justice and International Law in Honour of Professor Georges Abi-Saab, 2001; Book Review on *Human Rights in Africa Series*, ed. Professor Christof Heyns, *Leiden Journal of International Law*, 2001; "Africa's Place in the International Justice System", Paper delivered at the 643rd Wilton Park Conference: Justice in Africa, 2001; "Refugees: A Continuing Challenge", Paper delivered at the 25th Round Table on Current Problems of International Humanitarian Law, International Institute of Humanitarian Law, San Remo, 2001; "The Protection of Civilian Populations in Non-International Armed Conflicts", Paper delivered at the Third Meeting of Experts, International Institute of Humanitarian Law, Stockholm, 2001.

Judge Vladlen Stepanovich VERESHCHETIN

(Member of the Court since 26 January 1995; re-elected as from 6 February 1997)

Born in Briansk, Russian Federation, on 8 January 1932.

Graduated (with honours) from the International Law Faculty of the Moscow Institute of International Relations (1954). Post-graduate studies in international law at the same Institute (1955-1958). Candidate of Juridical Sciences (1959). Doctor of Juridical Sciences (1976). Professor of International Law (1982). Maître émérite des Sciences of the Russian Federation (1995).

Staff member of the Presidium of the USSR Academy of Sciences (1958-1967). First Vice-Chairman and Legal Counsel, Intercosmos, USSR Academy of Sciences (1967-1981). Deputy Director and Head of the International Law Department of the Institute of State and Law, Russian Academy of Sciences, Moscow (1981-1995).

Member of the United Nations International Law Commission (1992-1995); Chairman of the Commission (1994). Member of the USSR delegations to the United Nations Committee on the Peaceful Uses of Outer Space and its Legal Sub-committee (1979-1990).

Member of the Permanent Court of Arbitration (1984-1995).

Has given lecture courses and individual lectures on the theory of international law, the peaceful settlement of international disputes, the law of the sea, the law of outer space and the law of international organizations at the Institute of International Relations, the Diplomatic Academy and the University of Friendship of Peoples (Moscow), the Juridical Institute (Ekaterinburg), the Institute of International Public Law and International Relations (Thessaloniki), the European University Institute (Florence), the Universities of Cleveland, Akron and Mississippi, the Institute of International Private and Public Law (The Hague) and the University of Dundee (Scotland). Has presented papers on different international law subjects at many national and international congresses and conferences.

Vice-President of the Russian (formerly Soviet) Association of International Law (1985-1997). Chairman of the Scientific Council on International and Comparative Law at the Institute of State and Law, Russian Academy of Sciences (1981-1995). Vice-President of the Russian (formerly Soviet) United Nations Association (1984-1997). Vice-President (1978-1995), Honorary Director of the International Institute of Space Law. Member of the Policy and Finance Committee of the International Law Association (1990-2002). Member, Board of Directors of the International Institute of Air and Space Law, Leiden University (1995-2004). Member, International Advisory Board of same Institute (since 2004). Member (since 1977), Trustee (1985-1996) of the International Academy of Astronautics.

Member of the editorial and advisory boards of the *Russian Law Journal*, the *Journal of Space Law* (United States), the *Chinese Journal of International Law* and *The International Lawyer* (Moscow).

Orders and awards: "Badge of Honour" (1967), "Friendship of Peoples" (1975), "October Revolution" (1981). Honorary Awards of the German Academy of Sciences at Berlin (1978), the Bulgarian Academy of Sciences (1979), the International Academy of Astronautics (1987, 1994), the International Institute of Space Law (1995), the Russian Association of International Law (1995), Hugo Grotius Medal (2001).

Author of more than 150 works and articles on international law published in Russia and abroad, including seven-volume *Course of International Law*, Moscow, 1989-1993 (Deputy Editor-in-Chief of the course and co-author).

Judge Rosalyn HIGGINS

(Member of the Court since 12 July 1995; re-elected as from 6 February 2000)

Born in London on 2 June 1937.

Married to the Rt. Hon. the Lord Higgins, KBE, DL.

Dame Commander of the British Empire (1995).

Fellow of the British Academy; Fellow of the American Academy of Arts and Sciences.

B.A. (Cantab.) 1st Class (1959); LL.B. (Cantab.) 1st Class (1962); J.S.D. (Yale) (1962); M.A. (Cantab.) (1962); Honorary Doctorates of the Universities of Paris XI (1980), Dundee (1992), Durham and the London School of Economics (1995), Cambridge, Kent, Essex, Sussex, Greenwich and London City University (1996), Birmingham, Leicester, Glasgow (1997), Nottingham (1999), Bath, Paris II (2001), Oxford (2002) and Reading (2003). Awarded the Yale Law School Medal of Merit (1997) and the Manley O. Hudson Medal (1998).

Minor Scholar, Girton College, Cambridge (1957); Major Scholar, Girton College, Cambridge (1958); Campbell Scholarship for Professional Studies (1957); Montefiore Award for academic and general distinction (1958); Bryce-Tebbs Scholar, Cambridge (1958); Commonwealth Fund (Harkness) Fellowship (1959-1961); Graduate Fellow, Yale Law School (1959-1961).

United Kingdom Interne, Office of Legal Affairs, United Nations (1958); Visiting Fellow, Brookings Institution, Washington, DC (1960); Junior Fellow in international studies, London School of Economics (1961-1963); Staff specialist in international law, Royal Institute of International Affairs (1963-1974); Visiting Fellow, London School of Economics (1974-1978); Professor of International Law, University of Kent at Canterbury (1978-1981); Professor of International Law, University of London (1981-1995).

Queen's Counsel (1986); Bencher of the Inner Temple (1989).

Queen's Counsel and Bencher of the Inner Temple, practising in public international law and petroleum law. Practice in the English courts and before various international tribunals, including the International Court of Justice, the European Court of Human Rights and the Court of the European Communities.

Counsel for the International Tin Council in a series of cases in the United Kingdom.

Counsel in the following cases in the International Court of Justice: *Territorial Dispute (Libyan Arab Jamahiriya/Chad)*; *East Timor (Portugal v. Australia)*; *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United Kingdom)*; *Gabčíkovo-Nagymaros Project (Hungary/Slovakia)*.

President, Tribunal of the International Centre for Settlement of Investment Disputes *(Amco v. Indonesia)*.

Member of the Committee on Human Rights under the International Covenant on Civil and Political Rights (1984-1995); Special Rapporteur for new cases (1989-1991).

Associé of the Institut de droit international (1987), Member (1991); Chairman (since 1992), Public International Law Advisory Board, British Institute for International and Comparative Law, and Vice-President of the Institute (since 2002); Hon. Vice-President of the American Society of International Law (1993).

Rockefeller Foundation Fellowship (1961); British Academy Award

(1977-1978); Volumes I and II of *United Nations Peacekeeping* received the 1971 Certificate of Merit of the American Society of International Law; *Problems and Process* received the 1995 Certificate of Merit of the American Society of International Law; Wolfgang Friedman Medal for services to International Law, Columbia University (1985); Harold Weil Medal, New York University (1995); Ordre des Palmes Académiques (1988); Honorary Life Membership Award, American Society of International Law (1992).

Past member of the Board of Editors of the *American Journal of International Law* and the *Journal of Energy and Natural Resources Law*. Member of the Board of Editors of the *British Year Book of International Law*.

Delivered general course on international law at the Hague Academy of International Law (1991).

Author of *The Development of International Law through the Political Organs of the United Nations*, 1963; *Conflict of Interests: International Law in a Divided World*, 1965; *The Administration of the United Kingdom Foreign Policy through the United Nations*, 1966; *UN Peacekeeping: Documents and Commentary*, Vol. I, *Middle East*, 1969, Vol. II, *Asia*, 1970, Vol. III, *Africa*, 1980, Vol. IV, *Europe*, 1981; *Law in Movement Essays in Memory of John McMahon* (joint editor with James Fawcett), 1974; "The Taking of Property by the State: Recent Developments in International Law", *Recueil des cours*, Hague Academy of International Law, Vol. 176, 1982; *Liberté de circulation des personnes en droit international* (joint editor with Maurice Flory), 1988; "International Law and the Avoidance, Containment and Resolution of Disputes (General Course on Public International Law)", *Recueil des cours*, Vol. 230, 1991; *Problems and Process: International Law and How We Use It*, 1994; and of various works and articles on international legal theory, United Nations law, the use of force, State and diplomatic immunities, human rights and international petroleum law.

Judge Gonzalo PARRA-ARANGUREN

(Member of the Court since 28 February 1996; re-elected as from 6 February 2000)

Born in Caracas, Venezuela, on 5 December 1928.

Degree in juridical and political sciences (*summa cum laude*) at the Central University of Venezuela (1950); postgraduate course in comparative law and jurisprudence (LL.M.) at the Inter-American Law Institute, New York University (1951-1952); Doctor of Law (*"doktor iuris"*) (*cum laude*) at the Ludwig-Maximileans University, Munich (1955).

Professor at the Central University of Venezuela, Caracas, teaching private international law (1956-1996); has taught that same course at Andrés Bello Catholic University in Caracas (1957-1996).

Judge in the Second Tribunal of First Instance (commercial matters), Federal District and State of Miranda, Caracas (1958-1971); first associate judge (1988-1992) in the Chamber of Cassation (civil, commercial and labour matters) of the Supreme Court of Justice; alternate judge of the same Chamber (1992-1996). Has acted as arbitrator, both in Venezuela and abroad, in the latter case regarding international commercial matters of a private nature; on several occasions has testified in foreign courts as an expert on Venezuelan law.

Member of the commission of enquiry appointed in 1985 by the Governing Body of the International Labour Office to consider the implementation by the Federal Republic of Germany of the ILO Discrimination (Employment and Occupation) Convention (1958, No. 111); the report was submitted in 1986, but he did not endorse its recommendations.

Member of the Permanent Court of Arbitration (since 1985).

Member of the legislative committees that drafted the section on Venezuelan nationality in connection with the Constitution that was approved in 1961; the draft law on private international law (1963) and its subsequent revision in 1965 that was essentially reproduced in the Venezuelan Private International Law Act (1998); and the revised draft sections of the Code of Commerce dealing with credit instruments and bankruptcy respectively (1963-1965). The Venezuelan Supreme Court of Justice published in 2001 in his homage a compilation of the *travaux préparatoires* and the consideration by Congress of the 1998 Private International Law Act as well as a selection of explanatory commentaries and relevant decisions applying to it.

Member of the legal advisory committee of the Ministry of Foreign Affairs (1984-1996) and of the legal advisory council of the National Congress (1990-1996).

Member of the Institut de droit international (elected in 1979).

Member of the Academy of Political and Social Sciences of Caracas (since 1966) and its President (1993-1995). Corresponding Member of the Uruguayan International Law Association (1978); Corresponding Member of the Argentine International Law Association (1981); Corresponding Member of the National Academy of Law and Social Sciences of Córdoba, Argentine Republic (1982); Honorary Fellow of the Royal Academy of Jurisprudence and Legislation of Granada, Spain (1994); Corresponding Member of the Mexican Academy of Jurisprudence and Legislation corresponding to that of Spain (1994); Honorary Fellow of the Royal Academy of Jurisprudence and Legislation, Madrid (1994); Member of the "Deutsche Gesellschaft für Völkerrecht" (1998).

Member of the Governing Council of the International Institute for the Unification of Private Law (UNIDROIT) (1982-1993); elected again in 1996 for one year. Honorary Member of the same Council since 1993.

Former Member of the editorial board of the *Revista del Colegio de Abogados del Distrito Federal*, Caracas, and of the editorial board of the *Revista de la Facultad de Derecho de la Universidad Católica Andrés Bello*, Caracas (from its establishment until 1996). Correspondent for the *Netherlands International Law Review* (since 1987).

Taught the General Course on Private International Law at the Hague Academy of International Law (1988), and has given lectures in various countries: in Curaçao, at the commemoration of the centenary of the Introduction of the Civil Code and the Installation of the High Court of Justice (1969); at the course on international law (Rio de Janeiro, 1978, 1979, 1982, 1988, 1992 and 1997), organized by the Inter-American Juridical Committee and the Brazilian Foundation "Getulio Vargas"; at the Hague Academy of International Law, on "Recent Developments of Conflict of Laws Conventions in Latin America" (1979); at the "Journeys of International Law" (Salamanca, November 1992); at the seminar on "Principles for the International Commercial Contracts", prepared by the International Institute for the Unification of Private Law (UNIDROIT) (Rome, December 1993); at the working meeting on the "Reviews and Books for the Unification of the Latin-American Juridical System" (Rome, December 1993); at the Eighth World Conference of the International Society of Family Law (Cardiff, June 1994); at the Congress on Children on the Move, organized by the Dutch committee of the International Year of the Family in collaboration with the Hague Conference on Private International Law (The Hague, October 1994); at the seminar on "Adoption, an Act of Love", organized by the Colombian Institute for Family Welfare (Bogotá, June 1995); at the Symposium "Il nuovo Diritto Internazionale Privato Italiano", University of Padua (1996); at the Symposium "Globalization of Child Law: The Role of the Hague Convention" (The Hague, September 1997); and at the "Civil Law Congress", organized by the Bar Association of Puerto Rico (1998).

Co-Chairman of the Committee on Private International Law, during the Sixteenth Session of the Inter-American Lawyers Federation (Caracas, 1969). Reporter at the "First Latin-American Journeys of International Law", at the Andrés Bello Catholic University (Caracas, 1979); at the Twelfth Congress of the Hispano-Luso Institute of International Law (Merida, Venezuela, 1980); at the International Seminar on Adoption (Caracas, 1996); and at the Inter-American Congress "Towards a New Regulation of the International Contracts" (Valencia, Venezuela, 1996).

Representative for Venezuela at the International Association of Legal Science and the German Society for Comparative Law (Treveris, Federal Republic of Germany, 1961); and at the third meeting of the Joint Venezuelan-Spanish Commission (Madrid, 1974).

Representative for Venezuela at the first Inter-American Specialized Conference on Private International Law (CIDIP-I, Panama, 1975), being Vice-Chairman of the Second Committee; at the second such Conference (CIDIP-II, Montevideo, 1979), being Chairman of the Second Committee; at the third and fourth such Conferences (held, respectively, CIDIP-III in La Paz, Bolivia, 1984, and CIDIP-IV in Montevideo, 1989), being Chairman of the Second Committee; and at the fifth such Conference (CIDIP-V, Mexico City, 1994), being Chairman of the First Committee.

Member of the Committees of Experts that met in Washington, D.C., in 1980 in preparation for the Third Inter-American Specialized Conference on Private International Law (CIDIP-III); in Tucson, Arizona, 1993, in preparation for the Fifth Inter-American Specialized Conference on Private International Law (CIDIP-V); and in Washington, D.C. (1995, 1996) to prepare the Inter-American Convention against Corruption.

Representative of Venezuela at the Hague Conference on Private International Law: thirteenth session (1976-1977); fourteenth session (1980); fifteenth session (1984); special session (1985); sixteenth session (1988); and the seventeenth session (1993); Member of the special working group and Special Commission (April and October 1994, respectively) to study the application of the Convention of 1993 to minors who are refugees; and of the Special Commission (second meeting, June 1995) on the Protection of Minors and Incompetent Adults and of the Special Commission on maintenance obligations (November 1995). Elected one of the five Vice-Chairmen at the fifteenth and sixteenth sessions.

Rapporteur of the Special Commission of the seventeenth session of the Hague Conference on Private International Law and, in pursuance of these functions, prepared the preliminary report (1992) and the explanatory report on the Convention on Protection of Children and Co-operation in respect of Intercountry Adoption on 29 May 1993.

Author of the following books: *Die Regel "Locus Regit Actum" und die Formen der Testamente*, 1955; *La Nacionalidad Venezolana Originaria*, Vols. I and II, 1964; *La Constitución de 1830 y los Venezolanos por Naturalización*, 1969; *Codificación del Derecho Internacional Privado en América*, Vol. I, 1982, Vol. II, 1998; *La Nacionalidad Venezolana: I. Antecedentes Históricos*, 1983; *La Influencia del Matrimonio sobre la Nacionalidad de la Mujer en la Legislación Venezolana*, 1983; *La Nacionalidad Venezolana: II. Problemas Actuales*, 1983; *Monografías Selectas de Derecho Internacional Privado*, 1984; *Ensayos de Derecho Procesal Civil Internacional*, 1986; *Curso General de Derecho Internacional Privado (Problemas Selectos)*, 1991; *Curso General de Derecho Internacional Privado. Problemas Selectos y Otros Estudios*, 1992; *Curso General de Derecho Internacional Privado. Problemas selectos y Otros Estudios*, Tercera Edición Revisada, 1998; *Estudios de Derecho Procesal Civil Internacional*, 1998; *Escritos Diversos de Derecho Internacional Privado*, 1998; *Estudios de Derecho Mercantil Internacional*, 1998.

Has published numerous articles on the law of nationality, private international law and international civil procedural law in Venezuelan and foreign journals.

Judge Pieter Hendrik KOOIJMANS

(Member of the Court since 6 February 1997)

Born at Heemstede, Netherlands, on 6 July 1933.

Econ. B. (1955), LL.M. (with honours) (1957), Dr. Iuris, Free University, Amsterdam (with honours) (1964).

Professor of Public International Law and European Law, Free University, Amsterdam (1965-1973). Professor of Public International Law, University of Leiden (1977-1992, 1995-1997).

State Secretary for Foreign Affairs of the Netherlands (1973-1977). Minister for Foreign Affairs of the Netherlands (1993-1994).

Member of the Netherlands delegation to the General Assembly of the United Nations (1967, Sixth Committee), Vice-Chairman (1973-1977), Chairman (1993). Head of the Netherlands delegation to various sessions of the Third United Nations Conference on the Law of the Sea (1974-1977), to the First Review Conference of the Non-Proliferation Treaty (1975), to the Geneva Diplomatic Conference on humanitarian law in armed conflict (1975) and to the United Nations Conference on *Apartheid* (1977). Head of the Netherlands delegation to the United Nations Commission on Human Rights (1982-1985, 1992).

Chairman of the United Nations Commission on Human Rights (1984-1985). Special Rapporteur of the United Nations Commission on Human Rights on Questions relevant to Torture (1985-1992).

Member of various United Nations and Conference on Security and Co-operation in Europe (CSCE) missions to the former Yugoslavia (1991-1992).

Member of the Group of International Advisors of the International Committee of the Red Cross.

Member and former Chairman of the Netherlands Branch of the International Law Association. Member of the Institut de droit international.

Former positions: Member of the Permanent Court of Arbitration. Chairman of the Supervisory Board of the Netherlands Research Center for African Studies. Vice-President of the European Cultural Foundation. Chairman of the Board of the Carnegie Foundation. Chairman of the Administrative Council of the Hague Academy of International Law. Chairman of the Board of the Netherlands Disaster Relief Agency. Chairman of the Supervisory Board of the Netherlands Refugee Foundation. Chairman of the Netherlands Foundation for support to the democratic institutions of the new South Africa. Vice-Chairman of the Dutch Evangelical Party (merged in 1980 with two other parties into the Christian Democratic Party). Chairman of the Foreign Affairs Committee of the Christian Democratic Party. Member of the Steering Committee of the International Crisis Group. Member of the Advisory Committee on Questions of International Law (Dutch Ministry of Foreign Affairs). Member of the Advisory Council on Questions of Peace and Security (Dutch Ministries of Foreign Affairs and Defence). Member of the Board of Editors of the *Netherlands International Law Review*. Chairman of the Board of the Institute of Social Studies (postgraduate school on questions of development). Chairman of the Board of the Netherlands Institute of Peace-related Issues. Vice-Chairman of the Advisory Commission on Questions of Aliens (quasi-judicial body, Dutch Ministry of Justice). Chairman of the Advisory Committee on Questions of Disarmament (Dutch Ministry of Foreign Affairs). Member of the Advisory Defence Council (Dutch Ministry of Defence). Member of various advisory commissions on the Codification of the Law of Aliens and of Refugees (Dutch Ministry of Justice).

Lecturer at the Hague Academy of International Law (1976 and 1991).

Author of numerous publications on international law.

Judge Francisco REZEK

(Member of the Court since 6 February 1997)

Born in Cristina, Minas Gerais (Brazil), on 18 January 1944.

LL.B (1966), D.E.S. (1967): Federal University of Minas Gerais (Belo Horizonte, MG). Docteur de l'Université de Paris-Sorbonne (1970). Diploma in Law, University of Oxford (1979).

Courses and research programmes: Harvard University (1965); the Hague Academy of International Law (1968, 1970).

Professor of International Law and Constitutional Law at the University of Brasilia (1971-1997). Chairman of the Department of Law (1974-1976). Dean of the Faculty of Social Studies (1978-1979). Professor of International Law at Rio Branco Institute (the official diplomatic school of Brazil) (1976-1997). Lecturer at the Hague Academy of International Law (1986) and at the Institute of International Public Law and International Relations, Thessaloniki (1989).

President of conferences, lecturer and examiner in contests for professorship in the major Brazilian universities (since 1971).

Attorney of the Republic before the Supreme Court of Brazil (1972-1979); Deputy Attorney-General of the Republic (1979-1983). Justice of the Supreme Court of Brazil, appointed by the President with approval of the Senate, March 1983, at the age of 39. Resigned in March 1990. Appointed again in April 1992 for life, retired in 1997.

Foreign Minister of Brazil (from March 1990 to April 1992).

Member of the Permanent Court of Arbitration (1987-2004).

Published works: *Direito dos Tratados*, 1984; *Direito Internacional Público*, 1st ed., 1989, 9th ed., 2001; *Droit des traités: particularités des actes constitutifs d'organisations internationales*, 1968; *La conduite des relations internationales dans le droit constitutionnel latino-américain*, 1970; "Aspectos elementares do Estatuto da Igualdade", in *Boletim do Ministério da Justiça*, No. 277, 1978; "Reciprocity as a Basis of Extradition", in *British Year Book of International Law*, Vol. 52, 1981; "Protection of the Victims of Armed Conflicts: Wounded, Sick and Shipwrecked", in *International Dimensions of Humanitarian Law*, Unesco, Institut Henry Dunant, 1988 (preceded by a French edition, 1986); "Le droit international de la nationalité", Hague Academy of International Law, *Recueil des cours*, Vol. 198, 1986; "Sur le fondement du droit des gens", in *Essays in Honour of Krzysztof Skubiszewski*, 1996; "A New International Order", in *Review of International Affairs*, 1990; "Una politica comercial para los nuevos tiempos", in *Revista Latinoamericana de Integración*, 1991; "Imunidade do Estado Estrangeiro à Jurisdição Local", in *Hector Gross Espiel liber amicorum*, 1997.

About 55 monographs and other legal studies published in specialized periodicals in Brazil. More than 300 advisory opinions pronounced on behalf of the Public Ministry in cases put before the Supreme Court of Brazil and published in its quarterly Report (1972-1983). More than 500 decisions or dissenting opinions pronounced in the Supreme Court of Brazil and published in its quarterly Report and in other periodicals (1983-1995).

Judge Awn Shawkat AL-KHASAWNEH

(Member of the Court since 6 February 2000)

Born in Amman, Jordan, on 22 February 1950.

Primary and secondary education at the Islamic Educational College of Amman. University education at Cambridge University (Queens' College), history and law, postgraduate studies in international law. M.A. LL.M. (Cantab.)

Joined the Jordanian diplomatic service in 1975. Second Secretary, then First Secretary at the Permanent Mission of Jordan to the United Nations in New York (1976-1980). Ministry of Foreign Affairs with special responsibility for international organizations and international law (1980-1985). Head of the Legal Department at the Ministry of Foreign Affairs (1985-1990). Seconded to the Royal Court (1990). Ambassador (1992). Adviser to the King and Adviser of the State on International Law with the rank of Cabinet Minister (1995). Chief of the Royal Hashemite Court (1996-1998).

Member of the Jordanian Royal Commission on Legislative and Administrative Reform (1994-1996). Chairman of the Jordanian National Group on the Implementation of International Humanitarian Law (1998).

Representative of Jordan at 19 sessions of the General Assembly of the United Nations (the Sixth (Legal) Committee) (since 1976). Jordan's alternate representative on the Security Council (1981-1982). Member of most Jordanian delegations to meetings of the Arab League, the Movement of Non-Aligned Countries and the Organization of the Islamic Conference held in the years 1980-1988. Member of, and Legal Adviser to, the Jordanian delegation to the peace negotiations in the Middle East (1991-1994).

Representative of Jordan at the following conferences and committees in the field of the codification and progressive development of international law: *Ad Hoc* Committee on the Drafting of an International

Convention against the Taking of Hostages (1977-1980); United Nations Conference on Succession of States in Respect of Treaties, Second Session (1978); United Nations Conference on Succession of States in Respect of State Property, Archives and Debts (1982); Chairman of the Drafting Committee at the United Nations Conference on Treaties between States and International Organizations or between International Organizations (1986). Rome Conference on the drafting of a Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (1988).

Member of the Arab International Law Commission (1982-1989).

Member of the United Nations Sub-Commission on the Prevention of Discrimination and Protection of Minorities (1984-1993). Chairman of the Sub-Commission (1993).

Special Rapporteur of the Commission on Human Rights on the human rights dimensions of forcible population transfer.

Chairman of Commission IV, Unesco General Conference (1993).

Member of the International Law Commission (1986-1999).

Member of the International Law Association, Committee on Maritime Neutrality (1994).

Member of the Board of Editors, *Palestine Yearbook of International Law*.

Member of the Council of the Centre of Islamic and Middle Eastern Law at the School of Oriental and African Studies, University of London.

Lectured and participated widely in academic seminars at various universities, including Oxford, Cambridge, London, Geneva and universities in Jordan.

Publications: Three reports on the human rights dimensions of forcible population transfers, to the Subcommission on Prevention of Discrimination and Protection of Minorities (1993-1997); "General Principles and Methods for Executing a New Convention", in *Environmental Protection and the Law of War*, 1992; "The International Law Commission and Middle East Waters", in *Water in the Middle East: Legal, Political and Commercial Implications*, 1995.

Honours: Istiqlal Order, First Class (1993); Kawkab Order, First Class (1996); Nahda Order, First Class (1996) (Jordan). Légion d'honneur, Grand Officier (1997) (France).

Judge Thomas BUERGENTHAL

(Member of the Court since 2 March 2000)

Born 11 May 1934.

B.A., Bethany College, West Virginia (1957); Juris Doctor, New York University School of Law (Root Tilden Scholar) (1960); Master of Laws, Harvard Law School (1961); Doctor of Juridical Science, Harvard Law

School (1968). Honorary Doctorates in Law: Bethany College (1981), University of Heidelberg, Germany (1986), Free University of Brussels (VUB), Belgium (1994), State University of New York (Buffalo) (2000), American University (Washington, D.C.) (2002), University of Minnesota (2003) and George Washington University Law School (2004).

Member of the Bars of the State of New York, District of Columbia, and United States Supreme Court.

Instructor in Legal Method, University of Pennsylvania School of Law (1961-1962); Professor of Law, State University of New York (Buffalo) School of Law (1962-1975); Fulbright and Jaworski Professor of International Law, University of Texas School of Law (1975-1980); Dean and Professor of International Law, Washington College of Law, The American University (1980-1985); I. T. Cohen Professor of Human Rights, Emory University School of Law, and Fellow, Carter Center of Emory University (Director, Human Rights Program (1985-1989)); Lobingier Professor of Comparative Law and Jurisprudence and Presiding Director, International Rule of Law Center, The George Washington University Law School (1989-2000).

Chairman, United States Government Delegation to Unesco Specialized Conference on International Education (1974); United States expert, Unesco Meeting of Experts on the Implementation of the 1974 Unesco Recommendation on International Education (1976); Chairman, Human Rights Committee, United States National Commission for Unesco (1976-1979); Chief United States Government Representative, Unesco Executive Board Working Group on Human Rights Procedures (1977 and 1978); Member, Advisory Board, President's Commission on the Holocaust (1978-1979); Vice-President, Unesco Congress on the Teaching of Human Rights, and Chairman, United States Delegation to the Congress (Vienna, 1978); Member, United States Government Delegation, Conference on Security and Co-operation in Europe, Copenhagen (1990); Member, United States Government Delegation, Conference on Security and Co-operation in Europe, Expert Meeting on Democratic Institutions, Oslo (1991); Member, United States Holocaust Memorial Council (1996-2001); Chairman, Committee on Conscience, United States Holocaust Memorial Council (1997-1999).

Judge, Vice-President, President, Inter-American Court of Human Rights (1979-1991); Judge, Vice-President, President, Administrative Tribunal, Inter-American Development Bank (1989-1994); Member, United Nations Human Rights Committee (1995-1999); Member, United Nations Truth Commission for El Salvador (1992-1993); Member, Panels of Conciliators and of Arbitrators, International Centre for Settlement of Investment Disputes, World Bank (since 1997); Arbitrator (1998-2002), Vice-Chairman, Claims Resolution Tribunal for Dormant Accounts in Switzerland (1999-2000).

Rapporteur, Study Panel on International Human Rights Law and Its Implementation, American Society of International Law (1970-1975);

Member, Board of Directors, International Institute of Human Rights (René Cassin Foundation), Strasbourg, France (1970-1989); Member, Executive Council, American Society of International Law (1977-1980; 1986-1989); Vice-President, American Society of International Law (1980-1982); Honorary Vice-President (1994-1999); Honorary President (since 2001); Advisory Committee (1980-1986), American Law Institute, Restatement (Third) on the Foreign Relations Law of the United States; Associate Reporter (1978-1980); Chairman, Human Rights Committee, International Law and Practice Section, American Bar Association (1981-1982; 1991-1992); Member, Administrative Council, Blaustein Institute of Human Rights (1996-2000); Member, Kuratorium and Scientific Council, Max Planck Institute for Public International Law, Heidelberg, Germany (since 1984); Founder and President, Inter-American Institute of Human Rights (1980-1992), Honorary President (since 1992); Member, Board of Directors, F. M. van Asbeck Centre for Human Rights Studies, University of Leiden, Netherlands (since 1991); Member, Advisory Board, Brazilian Institute of Human Rights (since 1997); Member, Standing Committee on World Order under Law, American Bar Association (1997-1999); Vice-Chairman, Academic Council, Institute of Transnational Arbitration (since 1998). Member, Executive Committee, ABA Centre for Human Rights (since 2003).

Member of the American Bar Association, American Society of International Law, American Law Institute, Council on Foreign Relations, German Society of International Law.

Pro-Humanitas Prize, West-Ost Kulturwerk (Federal Republic of Germany) (1978); Unesco Human Rights Prize (First Honourable Mention) (1978); Book Award (First Prize) of the Inter-American Bar Association for *Protecting Human Rights in the Americas: Selected Problems* (1982); Distinguished Service in Legal Education Award, New York University Law School Association (1987); Wolfgang G. Friedmann Memorial Award for Outstanding Achievement in International Law, Columbia University Law School (1989); Harry Leroy Jones Award for Outstanding Achievements in Foreign and International Law, Washington Foreign Law Society (1990); Human Rights Prize, Jacob Blaustein Institute for the Advancement of Human Rights (1997); Goler T. Butcher Medal for Excellence in Human Rights, American Society of International Law (1997); Manley O. Hudson Medal, American Society of International Law (2002).

Member of the following Editorial Boards: *American Journal of Comparative Law* (1966-1977); *American Journal of International Law; Human Rights Law Journal; Europäische Grundrechte Zeitschrift; Revue universelle des droits de l'homme*; and *Encyclopedia of Public International Law*.

Author of numerous books, essays and articles. Books include, *inter alia: Law-Making in the International Civil Aviation Organization*, 1969; *International Protection of Human Rights* (with L. B. Sohn), 1973; *Public International Law* (with J. G. Maier), 2nd ed., 1990; *International Human Rights*, 2nd ed., 1995; *Protecting Human Rights in the Americas* (with

D. Shelton), 4th ed., 1995; *International Human Rights* (with D. Shelton and D. Stewart), 3rd ed., 2002; *Public International Law* (with S. Murphy), 3rd ed., 2002; *Grundzüge des Völkerrechts* (C. F. Muller, 1988) (with K. Doehring, H. Maier and J. Kokott), 2nd ed., 1999, 3rd ed., 2003 (Kokott, Doehring and Buergenthal).

Judge Nabil ELARABY

(Member of the Court since 12 October 2001)

Born in Egypt on 15 March 1935.

Licence en droit, Faculty of Law, Cairo University (1955). L.L.M. (Master in International Law), New York University Law School (1969). J.S.D. (Doctor of Juridical Science), New York University Law School (1971). Adlai Stevenson Fellow in International Law, United Nations Institute for Training and Research (UNITAR) (1968). Special Fellow in International Law, UNITAR (1973).

Lecturer in international law and international organizations, Institute for Diplomatic Studies, Egyptian Ministry of Foreign Affairs, Cairo. Partner, Zaki Hashem & Partners, Attorneys at Law.

Legal Adviser to the Egyptian delegation to the United Nations Geneva Middle East peace conference (1973-1975). Legal Adviser and Director, Legal and Treaties Department, Ministry of Foreign Affairs, Cairo (1976-1978, 1983-1987). Legal Adviser to the Egyptian delegation to the Camp David Middle East peace conference (1978). Head of the Egyptian delegation to the *Taba* negotiations (1985-1989). Agent of the Egyptian Government to the Egyptian-Israeli arbitration tribunal (*Taba* dispute) (1986-1988). Appointed by the Egyptian Minister of Justice on the list of arbitrations in civil and commercial affairs in Egypt (since 1995).

Ambassador, Deputy Permanent Representative of Egypt to the United Nations in New York (1978-1981). Ambassador to India (1981-1983). Permanent Representative of Egypt to the United Nations Office at Geneva (1987-1991). Permanent Representative of Egypt to the United Nations in New York (1991-1999).

Chairman, United Nations Special Committee on Enhancing the Principle of the Prohibition of the Use of Force in International Relations (1981-1982). Chairman, Special Committee on the Charter of the United Nations and the Strengthening of the Role of the Organization (1983). Chairman, Working Group on Legal Instruments, United Nations Conference on Environment and Development, Rio de Janeiro (1992). Chairman, Informal Working Group on an Agenda for Peace (1992-1996). Chairman, First (disarmament and international security questions) Committee of the United Nations General Assembly (Forty-seventh Session). Vice-President of the General Assembly (1993, 1994, 1997). President of the United Nations Security Council (June 1996).

Judge, Judicial Tribunal of the Organization of Arab Petroleum Exporting Countries (since 1990). Member of the International Law Commission of the United Nations (1994-2001). Commissioner at the United Nations Compensation Commission in Geneva (1999-2001).

Arbitrator at the International Chamber of Commerce International Court of Arbitration in Paris in a dispute concerning the Suez Canal (1989-1992). Member of the World Intellectual Property Organization Arbitration and Mediation Centre List of Neutrals. Member of the Board, Cairo Regional Centre for International Commercial Arbitration.

Participant in the workshop entitled "The Adaptation of Structures and Methods at the United Nations" given at the Hague Academy of International Law (1985). Lectured at the Hague Academy of International Law, Columbia University, New York University, Duke University, Yale University, University of Pennsylvania, University of Houston, American Society of International Law, New York Bar Association, Greek Institute of International Law and International Peace Academy in New York and Vienna. Keynote Speaker at the Institut universitaire de hautes études internationales (1993): "The United Nations and the New World Order", Geneva and at the Vienna Diplomatic Academy (1995). Panellist at several annual meetings of the American Society of International Law (1980-1997).

Member of the Board of Trustees, American University in Cairo. Member of the Board, Egyptian Society of International Law. Member, American Society of International Law. Commissioner, Canberra Commission on the Elimination of Nuclear Weapons. Member, Board of Directors of the Institute of World Affairs, New York. Honorary Senior Fellow, Center for International Studies, New York University Law School (1992-1993). Visiting Scholar, Robert Wagner School of Public Service, New York University. Member of the Governing Board of the Stockholm International Peace Research Institute (SIPRI) (since 2001).

Author of numerous publications.

Judge Hisashi OWADA

(Member of the Court since 6 February 2003)

Born in Niigata, Japan, on 18 September 1932.

B.A., University of Tokyo (1955). LL.B., Cambridge University (1956). D. Phil. *honoris causa*, Keiwa University, Japan (2000). LL.D. *honoris causa*, Banaras Hindu University, India (2001).

Entered the Foreign Service of Japan in 1955. Official, Legal Affairs Division, Ministry of Foreign Affairs (1959-1963). First Secretary, Permanent Mission of Japan to the United Nations (1968-1971). Private Secretary to the Minister for Foreign Affairs of Japan (1971-1972). Director, United Nations Political Affairs Division, Ministry of Foreign

Affairs (1972-1974); Director, Treaties Division (1974-1976), Ministry of Foreign Affairs. Private Secretary to the Prime Minister of Japan (1976-1978). Minister, Embassy of Japan in Washington (1979-1981). Minister, Embassy of Japan in Moscow (1981-1984). Director General, Treaties Bureau (Principal Legal Adviser), Ministry of Foreign Affairs (1984-1987). Ambassador, Permanent Representative of Japan to the OECD (1988-1989). Deputy Minister, Ministry of Foreign Affairs (1989-1991). Vice-Minister for Foreign Affairs (1991-1993). Ambassador, Permanent Representative of Japan to the United Nations (1994-1998). Special Adviser to the Minister for Foreign Affairs of Japan (1999-2003).

Member of the Japanese Delegation to the Second United Nations Conference on the Law of the Sea (1960). Alternate Representative of Japan to the United Nations Conference on the Law of Treaties (1968-1969). Head of the Japanese Delegation to the Committee on Peaceful Uses of the Sea Bed and Ocean Floor (1968-1972). Head of the Japanese Delegation to the Legal Sub-Committee of the United Nations Committee on Peaceful Uses of Outer Space (1968-1970). Head of the Japanese Delegation to the United Nations Special Committee on Friendly Relations (1968-1970); Chairman of the Drafting Committee of the Special Committee (1970). Rapporteur of the Sixth Committee of the United Nations General Assembly, Twenty-fifth Session (1970). Member of the Japanese Delegation to the United Nations General Assembly, Twenty-third to Twenty-fifth Sessions (Sixth Committee) (1968-1970). Alternate Representative of Japan to the United Nations General Assembly, Twenty-seventh to Twenty-eighth Sessions (1972-1973). Alternate Representative of Japan to the Third United Nations Conference on the Law of the Sea (1973-1982). Adviser to the Japanese Delegation to the United Nations General Assembly, Thirty-ninth to Forty-first (1984-1986) and Forty-fourth to Forty-fifth Sessions (1989-1990). Representative of Japan to the United Nations General Assembly, Forty-ninth to Fifty-third Sessions (1994-1998). Representative of Japan to the World Summit for Social Development in Copenhagen (1994). Representative of Japan to the Fourth World Conference on Women in Beijing (1995). Representative of Japan to the Assembly of Heads of State and Government, Organization of African Unity, 31st to 33rd Sessions (1995-1997). Representative of Japan to the General Assembly of the Organization of American States (1996). Representative of Japan to the United Nations Security Council (1997-1998). President of the Security Council (1997, 1998). Representative of Japan to the Ministerial Meeting of the Non-Aligned Movement (1997-1998). Representative of Japan to the Summit Meeting of the Non-Aligned Movement (1998). Head of the Japanese Delegation to the United Nations Diplomatic Conference on the Establishment of an International Criminal Court (1998).

President of the Japan Institute of International Affairs (1999-2003). Senior Adviser to the President of the World Bank (1999-2000). Member of the Permanent Court of Arbitration (since 2001).

Visiting Professor of International Law, Harvard Law School (1979-1981, 1987, 1989, 2000-2002). Adjunct Professor of International Law and Organizations, University of Tokyo (1963-1965, 1971-1976, 1984-1988). Inge Rennert Distinguished Visiting Professor of International Law, New York University Law School (1994-1998). Adjunct Professor of International Law, Columbia Law School (1994-1998). Professor, Hague Academy of International Law (1999). Professor of International Law and Organizations, New York University Global Law School (1999-2003). Professor of International Law and Organizations, Waseda University Graduate School (2000-2003). Visiting Fellow Commoner of Trinity College, Cambridge University (2002). Academic Adviser, Hiroshima University (since 2002).

Member, Institut de droit international. Honorary Member, Japanese Association of International Law. Member, Executive Council of the Japan Branch, International Law Association.

Honours: Humanitarian Studentship in International Law, Cambridge University (1958-1959). Al-Istiqlal Order, First Degree, Hashemite Kingdom of Jordan (1990). Officier, Légion d'honneur, France (1992). Grand Cross of the Order of Merit, Federal Republic of Germany (1994).

Author of numerous publications on international law.

Judge Bruno SIMMA

(Member of the Court since 6 February 2003)

Born in Quierschied (Saar), Germany, on 29 March 1941.

Doctorate of Law, University of Innsbruck, Austria (1966). Practice at the Bar in Innsbruck (1967).

Assistant at the Faculty of Law, University of Innsbruck (1967-1972). Universitätsdozent *(venia legendi)* for International Law and International Relations (1971). Professor of International Law and European Community Law, Director of the Institute of International Law, University of Munich (1973-2003). Lecturer for International Law at the Training Centre for Junior Diplomats, German Federal Foreign Ministry (1981-1989). Visiting Professor at the University of Siena, Italy (1984-1985). Visiting Professor (1986 and 1995), Professor of Law (1987-1992), Member of the Affiliate Overseas Faculty (since 1997) of the University of Michigan Law School, Ann Arbor, United States. Lecturer (1995), Director of Studies (1976 and 1982) at the Hague Academy of International Law. Dean of the Munich Faculty of Law (1995-1997).

Member of the United Nations Committee on Economic, Social and Cultural Rights (1987-1996). Member of the United Nations International Law Commission (1996-2003). Member of the Advisory Boards on International Law and on United Nations Issues of the German Federal Foreign Ministry (until 2002).

Was actively engaged in the following cases before the International Court of Justice: *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon* v. *Nigeria: Equatorial Guinea intervening)* as Counsel for Cameroon (1994-2002); *LaGrand (Germany* v. *United States of America)* as Co-agent and Counsel for Germany (1999-2001); and *Certain Property (Liechtenstein* v. *Germany)* as Counsel for Germany (2001-2002).

Arbitrator in the Iron Rhine Arbitration between Belgium and the Netherlands (since 2003).

Member of the Court of Arbitration for Sport (CAS) of the International Olympic Committee.

Expert at the Council of Europe (Directorate of Legal Affairs) (1972). Expert for the Human Dimension Mechanism of the OSCE and for Conflict Prevention Activities of the Secretary-General of the United Nations. Consultant in cases before the European Commission and the European Court of Human Rights. Consultant on international law to various Governments.

First President of the European Society of International Law (2004). Associate Member of the Institut de droit international. Member of the International Council of Environmental Law. Member of the Advisory Board of the Heidelberg Max Planck Institute of Foreign Public and International Law. Member of the Council (since 1987), Vice-President (1989-1993) of the German Society of International Law. Member of various other professional associations.

Co-founder and co-editor of the *European Journal of International Law*. Member of the advisory boards of various international legal journals and yearbooks.

Certificate of Merit awarded by the American Society of International Law (1996).

Principal publications: *Das Reziprozitätselement in der Entstehung des Völkergewohnheitsrechts*, 1970; *Das Reziprozitätselement im Zustandekommen völkerrechtlicher Verträge. Gedanken zu einem Bauprinzip der internationalen Rechtsbeziehungen*, 1972; *Universelles Völkerrecht. Theorie und Praxis* (together with Alfred Verdross), 1st ed., 1976, 2nd ed., 1981, 3rd ed., 1984; *Territoriale Souveränität und Gebietshoheit. Zur völkerrechtlichen Lage der Oder-Neiße-Gebiete* (together with Alfred Verdross and Rudolf Geiger), 1980; *Europarecht in Fällen* (together with Waldemar Hummer and Christoph Vedder, 1st ed., 1991, 2nd ed., 1994, 3rd ed., 1999; *Kompetenzen und Grundrechte: Beschränkungen der Tabakwerbung aus der Sicht des Europarechts* (together with Joseph H. Weiler and Markus Zöckler), 1999; *Restitution und Entschädigung im Völkerrecht: Die Verpflichtungen der Republik Österreich nach 1945 im Lichte ihrer außenpolitischen Praxis* (together with Hans-Peter Folz), 2004; *International Protection of the Environment. Treaties and Related Documents* (together with Bernd Rüster and Michael Bock), 30 vols., 1975-1983, continued in loose-leaf format 1990 ff.; *Zwischen Intervention und Zusammenarbeit. Interdisziplinäre Arbeitsergebnisse zu Grundfragen der KSZE* (together with Edda Blenk-Knocke), 1979; *Jus humanitatis. Festschrift zum 90. Geburtstag von Alfred Verdross* (together with Herbert Miehsler, Erhard Mock and Ilmar Tammelo), 1980; *United Nations Codification of State Responsibility* (together with Marina Spinedi), 1987; *Charta der Vereinten Nationen: Kommentar*, 1991; *The Charter of the United Nations: A Commentary*, 1st ed., 1995, 2nd ed., 2002; *Neues europäisches Völkerrecht nach dem Ende des Ost-West-Konfliktes?* (together with Hanspeter Neuhold), 1996; "Reflections on Article 60 of the Vienna Convention on the Law of Treaties and Its Background in General International Law", *Österreichische Zeitschrift für öffentliches Recht*, Vol. 20, 1970; "Völkerrechtswissenschaft und Lehre von den Internationalen Beziehungen. Erste Überlegungen zur Interdependenz zweier Disziplinen", *Österreichische Zeitschrift für öffentliches Recht*, Vol. 23, 1972; "Das Kernkraftwerk an der Grenze: Eine 'Ultra-Hazardous Activity' im Schnittpunkt von internationalem Nachbarrecht und Umweltschutz" (together with A. Randelzhofer), *Festschrift für Friedrich Berber zum 75. Geburtstag*, 1973; "Der Grundvertrag und das Recht der völkerrechtlichen Verträge", *Archiv des öffentliches Rechts*, Vol. 100, 1975; "Methodik und Bedeutung des Arbeit der Vereinten Nationen für die Fortentwicklung des Völkerrechts", *Die Vereinten Nationen im Wandel*, 1975; "Zur bilateralen Durchsetzung vertraglich verankerter Menschenrechte. Aktivlegitimation und zulässige Mittel nach allgemeinem Völkerrecht", *Autorität und internationale Ordnung. Aufsätze zum Völkerrecht* (Christoph Schreuer, ed.), 1979; "Grenzüberschreitender Informationsfluß und domaine réservé der Staaten", *Berichte der Deutschen Gesellschaft für Völkerrecht*, Vol. 19, 1979; "Der Beitrag von Alfred Verdross zur Entwicklung der Völkerrechtswissenschaft" (in collaboration with Michael Bock, Jennifer Clayton and Joachim Krauß), *Jus humanitatis. Festschrift für Alfred Verdross zum 90. Geburtstag*, 1980; "Völkerrecht in der Krise?", *Österreichische Zeitschrift für Außenpolitik*, Vol. 20, 1980; "Zur völkerrechtlichen Bedeutung von Resolutionen der UN-Generalversammlung", *Fünftes deutsch-polnisches Juristen-Kolloquium, Vol. 2: Die Bedeutung der Resolutionen der Generalversammlung der Vereinten Nationen* (Rudolf Bernhardt, Jost Delbrück and Ingo von Münch, eds.), 1981; "Droit international coutumier et droit interne selon la Loi fondamentale", *Völkerrecht und Landesrecht. Deutsch-argentinisches Verfassungsrechtskolloquium in Buenos Aires* (Michael Bothe and R. E. Vinuesa, eds.), 1982; "Consent: Strains in the Treaty System", *The Structure and Process of International Law: Essays in Legal Philosophy, Doctrine and Theory* (R. St. J. Macdonald and D. M. Johnston, eds.), 1983; "Legal Aspects in Intra-(East-West) German Relations", *Maryland Journal of International Law and Trade*, Vol. 9, 1985; "Self-contained Regimes", *Netherlands Yearbook of International Law*, Vol. 16, 1985; "The Antarctic Treaty as a Treaty Creating an 'Objective Regime' ", *Cornell International Law Journal*, Vol. 19, 1985-1986; "Grundfragen der Staatenverantwortlichkeit in der Arbeit der International Law Commission", *Archiv des Völkerrechts*, Vol. 24, 1986; "La immunidad de los Estados", *Derecho*

Comparado (Buenos Aires), 1987; "The Court of Arbitration for Sport", *Völkerrecht. Recht der Internationalen Organisationen. Weltwirtschaftsrecht. Festschrift für Ignaz Seidl-Hohenveldern* (K.-H. Böckstiegel, H.-E. Folz, J. M. Mössner and K. Zemanek, eds.), 1988; "Grenzüberschreitende Auswirkungen von Kernkraftanlagen und Völkerrecht" (together with Günther Handl), *Österreichische Zeitschrift für Öffentliches Recht und Völkerrecht*, Vol. 39, 1988; "Bilateralism and Community Interest in the Law of State Responsibility", *International Law at a Time of Perplexity. Essays in Honour of Shabtai Rosenne* (Y. Dinstein and M. Tabory, eds.), 1989; "International Crimes: Injury and Countermeasures. Comments on Part 2 of the ILC Work on State Responsibility", *International Crimes of States* (J. H. H. Weiler, A. Cassese and M. Spinedi, eds.), 1989; "Wirtschaftliche, soziale und kulturelle Rechte im Völkerrecht. Der Internationale Pakt von 1966 und sein Kontrollverfahren" (together with Sabine Bennigsen), *Festschrift für Ernst Steindorff zum 70. Geburtstag am 13. März 1990*, 1990; "A Hard Look at Soft Law", *Proceedings 82nd Annual Meeting of the American Society of International Law*, 1991; "The Implementation of the International Covenant on Economic, Social and Cultural Rights", *Die Durchsetzung wirtschaftlicher und sozialer Grundrechte* (Franz Matscher, ed.), 1991; "The Sources of Human Rights Law: Custom, Jus Cogens, General Principles" (together with Philip Alston), *The Australian Yearbook of International Law*, Vol. 12, 1992; "Does the UN Charter Provide an Adequate Legal Basis for Individual or Collective Responses to Violations of Obligations erga omnes?", *The Future of International Law Enforcement: New Scenarios – New Law?* (Jost Delbrück, ed.), 1993; "International Human Rights and General International Law: A Comparative Analysis", *Collective Courses of the European Academy of European Law*, Vol. IV, Book 2, 1994; "Die Erzeugung ungeschriebenen Völkerrechts: Allgemeine Verunsicherung – klärende Beiträge Karl Zemaneks", *Völkerrecht zwischen normativem Anspruch und politischer Realität. Festschrift für Karl Zemanek* (K. Ginther, G. Hafner, W. Lang, N. Neuhold and L. Sucharipa-Behrmann, eds.), 1994; "Countermeasures and Dispute Settlement: A Plea for a Different Balance", *European Journal of International Law*, Vol. 5, 1994; "From Bilateralism to Community Interest in International Law", *Recueil des cours*, Hague Academy of International Law, Vol. 250, 1994; "The Contribution of Alfred Verdross to the Theory of International Law", *European Journal of International Law*, Vol. 6, 1995; "Human Rights", *The United Nations at Age Fifty: A Legal Perspective* (Ch. Tomuschat, ed.), 1995; "The 'International Community': Facing the Challenge of Globalization" (together with Andreas Paulus), *European Journal of International Law*, Vol. 9, 1998; "The Impact of Nuremberg and Tokyo: Attempts at a Comparison", *Japan and International Law, Past, Present and Future* (N. Ando, ed.), 1999; "Human Rights Considerations in Development Cooperation Activities of the European Community" (together with Jo Aschenbrenner and Constanze Schulte), *The European Union and Human*

Rights (Ph. Alston *et al.*, eds.), 1999; "The Responsibility of Individuals for Human Rights Abuses in Internal Conflicts: A Positivist View" (together with Andreas Paulus), *American Journal of International Law*, Vol. 93, 1999; "NATO, the UN and the Use of Force: Legal Aspects", *European Journal of International Law*, Vol. 10, 1999; "Le rôle relatif des différentes sources du droit international (dont les principes généraux de droit)" (together with Andreas Paulus), *Droit international pénal*, 2000; "Reciprocity", *Encyclopedia of Public International Law* (Rudolf Bernhardt, ed.), Vol. IV, 2000; "International Adjudication and U.S. Policy — Past, Present, Future", *Democracy and the Rule of Law* (N. Dorsen and P. Gilford, eds.), 2001; "Peaceful Settlement of Boundary Disputes under the Auspices of the Organization of African Unity and the United Nations: The Case of the Frontier Dispute between Eritrea and Ethiopia" (together with Daniel Khan), *Liber Amicorum Judge Shigeru Oda*, Vol. 2 (N. Ando, E. McWhinney and R. Wolfrum, eds.), 2002; Reports on the Work of the International Law Commission at its 49th to 54th sessions, *Nordic Journal of International Law*, 1997-2003; "Staatenverantwortlichkeit und Menschenrechte im ILC-Entwurf 2001", *Verhandeln für den Frieden — Negotiating for Peace: Liber Amicorum Tono Eitel* (Jochen Abr. Frowein, Klaus Scharioth, Ingo Winkelman and Rüdiger Wolfrum, eds.), 2003.

Judge Peter Tomka

(Member of the Court since 6 February 2003)

Born in Banská Bystrica, Slovakia, on 1 June 1956.

LL.M. (*summa cum laude*), Faculty of Law, Charles University, Prague (1979), *Doctor juris* (international law), Charles University (1981), Ph.D. in International Law, Charles University (1985), Faculty of International Law and International Relations, Kiev, Ukraine (1982), Institut du droit de la paix et du développement, Nice, France (1984-1985), Institute of International Public Law and International Relations, Thessaloniki (1985), Hague Academy of International Law (1988).

Assistant Legal Adviser (1986-1990); Head of the Public International Law Division (1990-1991), Ministry of Foreign Affairs, Prague. Counsellor and Legal Adviser (1991-1992), Permanent Mission of Czechoslovakia to the United Nations. Ambassador, Deputy Permanent Representative (1993-1994), and Ambassador, Acting Permanent Representative of Slovakia to the United Nations (1994-1997). Director of the International Law Department (1997-1998); Director General for International Legal and Consular Affairs — Legal Adviser (1998-1999), Ministry of Foreign Affairs, Bratislava, Slovakia. Ambassador, Permanent Representative of Slovakia to the United Nations (1999-2003).

Chairman of the United Nations Committee on the Applications for Review of the Judgements of the Administrative Tribunal (1991). Vice-Chairman of the Sixth (Legal) Committee of the United Nations General Assembly (1992). Chairman of the Working Group on the United Nations Decade of International Law (1995). Chairman of the Meeting of the States Parties to the International Covenant on Civil and Political Rights (1996). Vice-President of the Sixth Meeting of the States Parties to the United Nations Convention on the Law of the Sea (1996). Chairman of the Sixth (Legal) Committee of the Fifty-second Session of the United Nations General Assembly (1997). Vice-Chairman of the Preparatory Committee for the International Criminal Court (1998). President of the Ninth Meeting of the States Parties to the United Nations Convention on the Law of the Sea (1999). Member (1999-2003), Second Vice-Chairman (2000), Chairman of the Drafting Committee (2001), United Nations International Law Commission. Chairman of the *Ad Hoc* Committee on the International Convention against the Reproductive Cloning of Human Beings (2002). Member of the Ambassadorial Panel of Experts to advise the Division for Ocean Affairs and the Law of the Sea (2002).

Representative of Czechoslovakia to the Preparatory Commission for the International Sea Bed Authority and the International Tribunal for the Law of the Sea (1987-1992). Alternate Representative of Czechoslovakia in the United Nations General Assembly, Forty-sixth and Forty-seventh Sessions, and Adviser at the Forty-fifth Session (1990-1992). Representative of Czechoslovakia in the Sixth Committee (1990-1992). Head of the Delegation of Czechoslovakia to the Meeting of the States Parties to the Antarctic Treaty, Madrid (1991). Head of the Delegation of Czechoslovakia to the CSCE Meeting of Experts on the Peaceful Settlement of Disputes in Europe, Valletta, Malta (1991). Representative of Slovakia to the United Nations General Assembly, Forty-eighth to Fifty-seventh Sessions (1993-2002), and Deputy Head of delegation at the Forty-ninth to Fifty-first and Fifty-fourth to Fifty-seventh Sessions. Representative of Slovakia in the Sixth Committee (1993-2002). Representative of Slovakia to the Preparatory Commission for the International Sea Bed Authority and the International Tribunal for the Law of the Sea (1993-1994). Head of the Delegation of Slovakia to the Assembly of the International Sea Bed Authority (1994-1996). Alternate Head of the Delegation of Slovakia to the Diplomatic Conference on the Establishment of the International Criminal Court (1998).

Agent of Slovakia before the International Court of Justice in the case concerning the *Gabčíkovo-Nagymaros Project (Hungary/Slovakia)* (1993-2003).

Expert of Slovakia in the ICSID case No. ARB/97/4, *Československá obchodni banka (CSOB)* v. *The Slovak Republic* before the International Centre for Settlement of Investment Disputes (Jurisdiction) (1997-1999).

Member of the Permanent Court of Arbitration (since 1994). Arbitrator in the *Iron Rhine* (*Belgium/Netherlands*) case (since 2003). Vice-Chairman (1999-2000) and Chairman (2001-2002) of the Committee of the Legal Advisers on Public International Law, Council of Europe.

Delegate of Czechoslovakia to the XXVth International Conference of the Red Cross, Geneva (1986).

Legal Adviser of the Czechoslovak Delegation at the negotiations on the withdrawal of Soviet military forces from Czechoslovakia (1989-1990). Legal Adviser of the Czechoslovak Delegation at the negotiations concerning the dissolution of the Warsaw Pact (1991).

Assistant (1980-1984), Reader (1984-1991), Public International Law, Charles University, Prague. General Course on Public International Law, Institute of International Relations, Comenius University, Bratislava (1998-1999).

Member (1981-1992) and Secretary (1986-1991) of the Czechoslovak Society of International Law. Member (1988-2001) and Secretary (1988-1991) of the Czechoslovak Branch of the International Law Association. Member (since 1982) and Honorary President (since 2003) of the Slovak Society of International Law. Member of the American Society of International Law (since 2000). Member of the European Society of International Law (since 2003). Member, Board of Editors, *Pravnik* (*The Lawyer*), published by the Czechoslovak Academy of Science (1990-1991).

Author of numerous publications on international law.

II. JUDGES *AD HOC*

Article 7, paragraph 3, of the Rules of Court provides that judges *ad hoc* are to take precedence after the Members of the Court and in order of seniority of age.

Judge *ad hoc* Sir Robert Yewdall JENNINGS

(Judge *ad hoc* in the case concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie* (*Libyan Arab Jamahiriya* v. *United Kingdom*))

Born on 19 October 1913.

Studied at Cambridge University, obtaining the degrees of M.A. and LL.B. and subsequently at Harvard University (Choate Fellow, 1936-1937).

Honorary Doctor of Law, Universities of Hull (1987), Saarland (1988), Rome (1990), Cambridge (1993), Leicester and Oxford (1996).

Assistant Lecturer in Law, London School of Economics (1938-1939) and Honorary Fellow (1994). Lecturer (1946-1955) and subsequently Whewell Professor of International Law in the University of Cambridge (1955-1982). Reader in International Law to the Inns of Court Council of Legal Education (1959-1970).

Fellow (since 1939), Senior Tutor (1949-1955) and sometime President of Jesus College, Cambridge.

Called to the Bar of Lincoln's Inn (1943); Honorary Bencher of Lincoln's Inn (since 1970); Queen's Counsel (since 1969).

Counsel in the *Rio Encuentro*, *Beagle Channel*, Franco-British *Continental Shelf Delimitation* and Dubai-Sharjah *Frontier Delimitation* arbitrations; appeared as Counsel before the Court in the *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)* case.

Sometime legal consultant to a number of Governments (Argentina, Bangladesh, Brunei, Canada, Sudan, Venezuela, Sharjah, etc.).

Judge *ad hoc*, European Court of Human Rights, in *X v. United Kingdom* (1982).

Member of the Permanent Court of Arbitration (since 1982).

President of the PCA Arbital Tribunal in the *Eritrea-Yemen Arbitration* (1996-1999).

Member (1982-1995) and President (1991-1994) of the International Court of Justice; member of its Chamber formed to deal with the case concerning the *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening)* (1986-1992) and its Chamber formed to deal with the case concerning *Elettronica Sicula S.p.A. (ELSI)* (1987-1989).

Public International Law Editor of the *International and Comparative Law Quarterly* (1957-1959). Editor of the *British Year Book of International Law* (1959), first with Sir Humphrey Waldlock and then as senior editor from 1974 to 1982.

Associate (1957), Member (1967), Vice-President (1979), President (1981) and Honorary Member (1985) of the Institute of International Law.

Honorary Life Member of the American Society of International Law and of the Indian Society of International Law.

Received the Manley Hudson Medal of the American Society of International Law (1993).

Gave the general course on principles of international law at the Hague Academy of International Law (1967).

Author of *Acquisition of Territory in International Law* (1963); *Oppenheim's International Law* (9th ed.), Vol. I, with Sir Arthur Watts; *Collected Writings of Sir Robert Jennings*, 2 vols., 1998; and various articles, mainly in the *British Year Book of International Law*.

Judge *ad hoc* François Ernest Robert RIGAUX

(Judge *ad hoc* in the case concerning *Oil Platforms (Islamic Republic of Iran* v. *United States of America)*)

Born in Ixelles, Belgium, on 26 March 1926.

Bachelier of Philosophy (1945); Doctor of Law (1947); Licencié in Criminal Science (1948); Agrégé in Law (1956); Doctor *honoris causa* of the University of Dijon (1981).

Senior Lecturer (1955), Assistant Professor (1959) and Professor (1961) in the Faculty of Law of the Université catholique de Louvain. Subjects taught: civil law (persons and property); private international law; protection of the individual and of privacy. Dean of the Faculty of Law (1980-1984), and President of the International Law Department of the Université catholique de Louvain. Professor emeritus at the Université catholique de Louvain (1991) and Visiting Professor, Faculty of Law (1991-1992; 1992-1993). Visiting Professor, Catholic University, Brussels (1993-1994 and 1994-1995) and University Faculties at Saint Louis, Brussels (1995-2000).

As well as courses and lectures at various foreign universities, particularly in Florence, Bremen, Barcelona, Caracas, Caceres, Geneva, Hamburg, Madrid, Milan, Munich, Nancy, Regensburg, Rio de Janeiro, Würzburg and Baton Rouge, gave courses as follows: a course at the Hague Academy of International Law on change of connecting factors in private international law (1966), published in the collection *Recueil des cours*; the General Course on Private International Law in 1989 on "Les situations juridiques individuelles dans un système de relativité générale", also published in the *Recueil des cours*; Visiting Professor at the Université Lovanium, Kinshasa (1970); holder of the Francqui Professorship at the Université libre de Bruxelles (1975-1976 academic year), where he taught a course entitled "Droit public et droit privé dans les relations internationales" (published in 1977); course at the Institut des hautes études internationales (Paris, 1978-1979 academic year) on the new international economic order (published in the Institute's "collection des cours et travaux"); Director of Studies of the 1979 summer programme of the Institut universitaire de Luxembourg on the impact of the EEC on the private international law of its member States (work published in 1980). Holder of the Francqui Professorship in the Faculty of Law of the Katholieke Universiteit Leuven (Catholic University of Louvain) (1980-1981 academic year), where he taught a course on "Le pluralisme juridique". Holder of the Francqui Professorship at the Facultés universitaires Notre-Dame de la Paix, Namur (1991-1992 academic year), where he taught a course on "La liberté de la vie privée". Holder of the Francqui Professorship at the University of Ghent (1996-1997) where he taught a course on "Le règlement juridictionnel des conflits de normes". Invited to give lectures at the Tunis Faculty of Law (1988 and 1989), the Florence Faculty of Political Science (1988), the Faculty of Law of the Université d'Aix-Marseille (1991-1992) and the Faculty of Law of Louisiana State University, Baton Rouge (1994-1995).

Served on Ph.D. examining boards at the Universities of Antwerp, Barcelona, Dijon, Ghent, Lyons, Nice, Paris, Reims, Strasbourg and Tunis.

Member of the Bar of Brussels (1947-1954). Deputy Royal Procurator (1954-1963). At present, Honorary Deputy Royal Procurator. Assessor, Legislation Section of the Conseil d'Etat (1966-1991), authorized by Royal Order to bear the honorary title of that function.

Member of the Constitutional Court of the Federation of Bosnia and Herzegovina (1996-2001).

Member of the Institute of International Law (and Third Vice-President from 1983 to 1985). Member of the Institut belge de droit comparé. Former President of the Société belge de droit international. Former President of the scientific council of the *Revue belge de droit international*. Member of the Académie royale de Belgique. (Associate) Member of the International Academy of Comparative Law.

Winner of the Prix des Anciens Présidents et du *Journal des tribunaux* awarded to a first-year trainee (1947-1948 judicial year). Winner of the Émile van Dievoet Prize (period 1951-1955) for his work entitled: *La théorie des qualifications en droit international privé*. Winner of the "Legatum Visserianum" Prize awarded in January 1962 by the College of Curators of Leiden University for a dissertation on Representation in Comparative Private International Law, submitted on 1 March 1959. Winner of the José A. Negri Prize awarded by the Federal Council of Argentine Notaries for the collective work "Les régimes matrimoniaux et les successions en droit international privé", edited by him in 1961 on the occasion of the Seventh International Congress of Latin Notaries.

Officer of the Order of Leopold (1968). Commander of the Order of the Crown (1977). Grand Officer of the Order of Leopold (1988).

Principal publications: *La théorie des qualifications en droit international privé*, 1956; *Le statut de la représentation en droit international privé*, 1959; *La nature du contrôle de la Cour de cassation*, 1966; *Précis de droit international privé*, 1968; *Précis de droit des personnes*, Vol. I: *Les relations familiales*, 1971, updated with the collaboration of M. T. Meulders-Klein, 1978; *Introduction à la science du droit*, 1974; *Droit public et droit privé dans les relations internationales* (publication of the *Revue générale de droit international public*, No. 26), 1977; *Droit international privé*, Vol. I: *Théorie générale*, 1977, revised 2nd ed., 1987; Vol. II: *Droit positif belge*, 1979, revised 2nd ed. with the collaboration of Marc Fallon, 1993; *Pour un autre ordre international*, Droit économique 2, Institut des hautes études internationales de Paris, 1979-1980; *Derecho internacional privado, parte general*, translation and adaptation to Spanish law of Volume I of *Droit international privé*, by Mrs. A. Borras Rodriguez, 1985; *La Carta di Algieri*, translated by Anna Lo Monaco, 1988; "Les situations juridiques individuelles dans un système de relativité générale (Cours générale de droit international privé)", *Recueil des cours*, Hague Academy of International Law, Vol. 213, 1989; *Pour une déclaration universelle des droits des peuples*, 1990; *La protection de la vie privée et des autres biens de la personnalité*, 1990; *La vie privée, une liberté parmi les autres?*, 1992; *La loi des juges*, 1997; *A lei dos juizes* (Brazilian translation), 2000; (Portuguese translation), 2000; *La legge dei giudici* (Italian translation), 2001; *Plaisir, interdits et pouvoir*, 2000; *Guerres et intervention dans le Sud-est européen*, 2004.

Judge *ad hoc* Krzysztof SKUBISZEWSKI

(Judge *ad hoc* in the case concerning *Gabčíkovo-Nagymaros Project (Hungary/Slovakia)*)

Born in Poznań, Poland, on 8 October 1926.

Faculty of Law and Economic Sciences, University of Poznan (*magister juris*) (1945-1949); Doctor *juris* (1950); European University Centre (Diploma of European Higher Studies), University of Nancy, France (1957); Harvard Law School (Master of Law) (1957-1958); "Habilitation" in International Law at the Adam Mickiewicz University in Poznan (1960); Doctor *honoris causa* of the Universities of Ghent, Liège, Turin, Mainz, Geneva and Warsaw (Cardinal Wyszynski University).

Assistant teacher and lecturer, Faculty of Law, Adam Mickiewicz University in Poznan (1948-1960); Dozent, Faculty of Law, Adam Mickiewicz University in Poznań (1961-1973), Pro-Dean at that Faculty (1961-1963); Visiting Scholar, School of International Affairs, Columbia University, New York (1963-1964); Visiting Professor at the Law Faculty, University of Geneva (1971 and 1979); Visiting Fellow, All Souls College, Oxford (1971-1972); Professor, Institute of Law, Polish Academy of Sciences, Warsaw (1973-1996); Honorary Professor, University of Bucharest.

Lectures at the Universities of Nottingham and London; International Faculty of Comparative Law in Strasbourg; Graduate Institute of International Studies at Geneva; College of Europe at Bruges, Belgium, and also the Clubs of International Law of Harvard, Duke and Oxford Universities; Max-Planck Institute in Heidelberg; Universities of Vienna and Graz; Faculty of Law, University of Paris II; Royal Institute of International Affairs, Chatham House; All Souls College, Oxford; Institut d'Etudes Politiques de Paris; Free University, Berlin; also Hersch Lauterpacht Lectures, Cambridge (1985); Cyril Foster Lecture, Oxford (1990); Lord Wilberforce Lecture (1990); Hugh Gaitskell Lecture (1991);

Hague Academy Jubilee Lecture (1998); and numerous other lectures in European, American, Australian and Asian Societies of Political and Legal Sciences or International Relations.

Member of "Solidarity" (since 1980); Member of the Primate of Poland Social Council (1981-1984); Member of the Co-ordinating Committee of the Poland-Federal Republic of Germany Forum, representing the secretariat of the Polish Episcopate (1984-1989); Member of the Consultative Council to the Chairman of the Council of State of the Polish People's Republic (1986-1989); Minister for Foreign Affairs (1989-1993).

Member (since 4 December 1993) and President (since 16 February 1994) of the Iran-United States Claims Tribunal.

Member, Bureau of the Court of Conciliation and Arbitration within the Organisation for Security and Co-operation in Europe (OSCE), Geneva (1995-2000).

Judge *ad hoc* in the International Court of Justice in the case concerning *East Timor (Portugal* v. *Australia)*.

Chairman of the Arbitration Tribunal Netherlands/France set up under the Rhine Convention of 1976 (2000-2004).

Co-founder and first Chairman of the Council on Foreign Policy (Warsaw, since 1996).

Member of the Academies of Sciences of Warsaw and of Cracow; Correspondent, Institut de France; Member, Society of Arts and Sciences, Poznań; Western Institute, Poznań; International Law Association (Polish branch); Institut de droit international (First Vice-President, 1995-1997); American Society of International Law (Honorary Member, 1991), Société française pour le droit international; Deutsche Gesellschaft für Völkerrecht; Oxford Society; Codrington Club; Honorary Bencher, Gray's Inn. Curator, United Nations Student Association, Poznan (1960-1973).

Gold Cross of Merit (1977); Knight's Cross of the Order of Polonia Restituta (1986); Grand Cross of the same Order (1993); Cavaliere di Gran Croce, Ordine Piano (Holy See, 1991); Grand Officier de la Légion d'honneur (1991); Grosskreuz des Verdienstordens der Bundesrepublik Deutschland (1991); Order of Diplomatic Merit of the Republic of Korea (1991); Cross of Merit of the Republic of Hungary (1994); Giedymin Order of Lithuania (2001), Austrian Honorary Cross of Science and Art (2002).

Alexander von Humboldt Foundation research prize (1984); Wartburg Prize, Germany (1992); Robert Schuman Gold Medal (1999); German-Polish prize (1999, awarded by virtue of Article 35 of the Treaty of 1991 between the two States).

Author of five books and over 100 articles in law journals or collections of studies, also chapters in collective books and reports, on legal aspects of Polish-German relations, in particular the border between the two countries; use of force by States and law of armed conflicts; law of international organizations; theory of international law, including its sources; rights of individuals.

Judge *ad hoc* Marc LALONDE

(Judge *ad hoc* in the case concerning the *Legality of Use of Force (Serbia and Montenegro* v. *Canada)*)

Born in Ile Perrot, Quebec, Canada, on 26 July 1929.

B.A., St. Laurent College, Montreal (1949); LL.L., University of Montreal (1954); M.A. (Law), University of Montreal (1955); M.A. (Oxon.) (Economics and Political Science), Oxford University (1957); Diploma of Superior Studies in Law, University of Ottawa (1960); LL.D. *honoris causa*, Limburg University, Netherlands (1993).

Called to the Bar of Quebec (1955).

Professor of Commercial Law and Economics, University of Montreal (1957-1959); Special Assistant to the Canadian Minister of Justice (1959-1960); Partner, Gelinas, Bourque, Lalonde & Benoit, Montreal (1960-1967); Lecturer in Administrative Law for Doctoral Students, University of Ottawa and University of Montreal (1961-1962); Policy Adviser to Lester B. Pearson, Prime Minister of Canada (1967-1968); Principal Secretary to Pierre E. Trudeau, Prime Minister of Canada (1968-1972); Member of Parliament (1972-1984); Minister of Health and Welfare (1972-1977); Minister Responsible for the Status of Women (1974-1979); Minister of State Responsible for Federal-Provincial Relations (1977-1978); Minister of Justice and Attorney General for Canada (1978-1979); Minister of Energy, Mines and Resources (1980-1982); Minister of Finance (1982-1984); Partner (1984-2002), Senior Counsel (since 2002), Stikeman Elliott, Montreal, Quebec.

Member of the Board of Directors of Citibank Canada, O & Y Properties Corporation, Sherritt International Corp., Oxbow Equities Corp., Repworld Holdings Ltd. and the Pierre Elliott-Trudeau Foundation.

Member of the International Advisory Council to the Presidium of Ukraine (1990-1997); the Advisory Committee on Constitutional Matters in Czechoslovakia (1989-1991); the International Advisory Council of Air France (1991-1994).

Chairman of the Council of Governors, Canada-Chile Board of Trade (since 1995). Chairman of Hôtel-Dieu Hospital, Montreal, Quebec (1984-1997).

Judge *ad hoc* in the International Court of Justice in the case concerning *Fisheries Jurisdiction (Spain* v. *Canada)* (1995-1998).

Member of the Quebec Bar; the Law Society of Upper Canada (Ontario Bar); the American Bar Association (associate member); the International Bar Association; the Canadian Bar Association; the Chambre de Commerce de Montreal; the Chambre de Commerce France-Canada; the International Council on Commercial Arbitration; the Corporate Counsel Committee, American Arbitration Association; Chairman of the North American Users Committee of the London Court of International Arbitration; Corresponding Member of the Institute of International Business Law and Practice of the International

Chamber of Commerce and of the Canadian Arbitration Committee of the International Chamber of Commerce; Member of the Council of the Royal College of Physicians and Surgeons of Canada (lay member) (1995-1997).

Has written a number of articles and delivered lectures in Canada and abroad on arbitration. Has also been a frequent speaker to national and international conferences in the Canada-United States Free Trade Agreement and the North American Free Trade Agreement.

Queen's Counsel (1971); Member of the Privy Council of Canada (1972); Officer of the Order of Canada (1989).

Judge *ad hoc* Mohammed BEDJAOUI

(Judge *ad hoc* is the case concerning the *Frontier Dispute (Benin/Niger)*)

Born in Sidi-Bel-Abbes, Algeria, on 21 September 1929.

Doctor of Law, Law Faculty of the University of Grenoble, France (1955). Doctor *honoris causa* of the Universities of Hyderabad, Aix-en-Provence, Brussels, Kuwait, Madrid-Complutense and Madrid-Carlos III. Diploma of the Institute of Political Studies, University of Grenoble (1952).

"Avocat stagiaire" at the Court of Appeal of Grenoble (1951-1953). Research Assistant at the Centre national de la recherche scientifique (CNRS), France (1956-1958).

Legal Adviser to the Provisional Government of the Republic of Algeria (1958-1961). Expert adviser to the Algerian delegation in the independence negotiations at Evian and Lugrin (1961).

Executive Secretary to the President of the National Constituent Assembly at Algiers (1962). Secretary-General of the Government (1962-1964).

Dean of the Faculty of Law and Economics of the University of Algiers (1964-1965).

Minister of Justice and Keeper of the Seals (1964-1970).

Algerian Ambassador to France (1970-1979). Permanent delegate of Algeria to Unesco (1971-1979). Ambassador and Permanent Representative of Algeria to the United Nations in New York (1979-1982).

Member of the International Court of Justice from 19 March 1982 to 30 September 2001. President of the Chamber formed to deal with the case concerning the *Frontier Dispute (Burkina Faso/Republic of Mali)*, 1983-1987. President of the Court from 1994 to 1997.

Co-President of the United Nations Commission of Enquiry to Iran (February-March 1980). Vice-President of the United Nations Council for Namibia (1979-1982). Chairman of the Group of 77 (1981-1982). Chairman of the Committee on the Drafting of an International Convention against the Recruitment, Use, Financing and Training of Mercenaries (1981-1982). Member of the Arbitration Tribunal for the determination of the maritime boundary between Guinea and Guinea-Bissau (1983-1985). Member of the Arbitration Tribunal for the determination of the maritime boundary between Guinea-Bissau and Senegal (1985-1989). Arbitrator or President in several international commercial arbitrations.

Participated in various sessions of the United Nations General Assembly as member, deputy-head or head of the Algerian delegation. Head of the Algerian delegations to the United Nations Conferences on Succession of States in Respect of Treaties (1977) and the Law of the Sea (1976-1980).

Took part in various sessions of the OAU Council of Ministers and OAU Summit Meetings, and in various ministerial meetings or conferences of heads of State and government of the non-aligned countries, as member, deputy-head or head of the Algerian delegation. United Nations Consultant Expert at the Vienna Conference on Succession of States in respect of State Property, Archives and Debts (1983).

Member of the International Law Commission (1965-1982).

Member of the Institute of International Law (since 1977); First Vice-President of the Institute (Strasbourg 1997-Berlin 1999). Member of the French Society for International Law. Member of the Scientific Council of the Institut du droit économique de la mer of the Principality of Monaco. Member of the Governing Board of the Foundation for International Studies of the University of Malta, Valletta. Member of the Independent Commission on International Humanitarian Issues (co-chaired by Prince Hassan bin Talal of Jordan and Prince Sadruddin Agha Khan) (1982-1987). Member of several award panels for international prizes, including that of the Albert Schweitzer Prize (United States of America). Member of the Jury for the Félix Houphouët-Boigny Peace Prize (Unesco). Member of the Unesco *Ad Hoc* Forum for Reflection (1992). Member of the Unesco International Consultative Committee on Bioethics (1994-1999). Member of the International Committee of Advisers of the Chinese International Law Institute, Beijing. Member of the International Council for Global Health Progress (since 1994). Member of the Independent World Commission on the Oceans (President: Mr. Mario Soares) (1995-1998).

Recipient of various prizes and honours.

Holder of decorations of several States.

Author of eight books and over 200 articles.

Judge *ad hoc* Santiago TORRES BERNÁRDEZ

(Judge *ad hoc* in the case concerning *Application for Revision of the Judgment of 11 September 1992 in the Case concerning the* Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening) (*El Salvador* v. *Honduras*))

Born in Vigo, Spain, on 18 November 1929.

Licenciado (1952) and Doctor of Law (1959) of the University of

Valladolid, Spain. *Diplomé d'études supérieures européennes* (1955) and Doctor of Law (1957) of the University of Saar, Germany. Doctor *Honoris Causa* of Law (1993) of the University of Alcalá de Henares, Spain.

Member of the Madrid Bar Association. Legal consultant and counsel or advocate in international cases. Arbitrator in the International Centre for Settlement of Investment Disputes (ICSID).

Member of the Permanent Court of Arbitration; Member of the International Humanitarian Fact-Finding Commission; Member of the Institute of International Law; Second Vice-President, Vancouver (2001); Member of the International Law Association; Honorary Member of the Spanish Association of International Law Professors; Member of the Société française pour le droit international; Member of the American Society of International Law; Associate Member of the Hispano-Luso-American Institute of International Law.

Judge *ad hoc* in the International Court of Justice in the cases concerning the *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening)* (1989-1992), *Fisheries Jurisdiction (Spain v. Canada)* (1995-1998), *Legality of Use of Force (Yugoslavia v. Spain)* (1999) and *Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. Bahrain)* (1991-2001).

Former Registrar of the International Court of Justice (1980-1986). Former Member of the Office of Legal Affairs of the Secretariat of the United Nations (1959-1980) being, since 1975, Deputy Director of the Codification Division and Deputy Secretary of the International Law Commission. During that period served continually United Nations legal bodies (Sixth Committee of the General Assembly; International Law Commission; special or *ad hoc* committees), participating also in all the United Nations diplomatic conferences convened between 1960 and 1980 for the purpose of the progressive development of international law and its codification.

Author of various published studies and articles on questions of international law and international organizations and procedures, including: *A propos de l'interprétation et de la revision des arrêts de la Cour internationale de Justice*, 1987; *Resignations at the World Court*, 1988; *La reciprocidad en el sistema de jurisdicción obligatoria establecido en el Artículo 36, párrafo 2, del Estatuto de la Corte Internacional de Justicia*, 1988; "Subsidiary Organs of International Organizations", in *A Handbook on International Organizations*, published by the Hague Academy of International Law, 1988; "Problems and Issues Raised by 'Crimes of States': An Overview", *International Crimes of States. A Critical Analysis of the ILC's Draft Article 19 on State Responsibility*, 1989; "L'arbitrage interétatique. Avec des références particulières à la Convention européenne pour le règlement des différends du 20 avril 1957", in *The Peaceful Settlement of International Disputes in Europe: Future Prospects*, Workshop of the Hague Academy of International Law, 1990; "Observations on 'Non-Appearance' before the International

Court of Justice", *Annuaire de l'Institut de droit international*, session de Bâle, Vol. 64-I, 1991; "Succession d'Etats", in Unesco, *Droit international, Bilan et perspectives*, 1991; *Reciprocity in the System of Compulsory Jurisdiction and in Other Modalities of Contentious Jurisdiction Exercised by the International Court of Justice*, 1992; *Perspectivas en la contribución de las Naciones Unidas al mantenimiento de la paz y la seguridad internacionales: Comentarios y observaciones sobre la Declaración de los Miembros del Consejo de Seguridad de 31 de enero de 1992*, 1993; "Spain and the Jurisdiction of the International Court of Justice: From Past to Present", *Archiv des Völkerrechts*, 1994; *The* Uti Possidetis Juris *Principle in Historical Perspective*, 1994; "Some Considerations on the Respective Roles of the Security Council and the International Court of Justice with Respect to 'the Prevention of Aggravation of Disputes' in the Domain of the Pacific Settlement of International Disputes or Situations", in *Proceedings of the Qatar International Law Conference '94* (United Nations Decade of International Law), 1995; "La función de la Corte Internacional de Justicia en el sistema de la Carta de las Naciones Unidas", *Proceedings of the United Nations Congress on Public International Law, New York (March 1995)*, 1996; "L'intervention dans la procédure de la Cour internationale de Justice", Hague Academy of International Law, *Recueil des cours*, Vol. 256 (1995); *La Corte Internacional de Justicia en el sistema de la Carta en el cincuenta aniversario de las Naciones Unidas*, Universidad Carlos III, Madrid, 1996; "The New Theory of 'Indispensable Parties' under the Statute of the International Court of Justice", *Essays in Honour of Eric Suy*, 1998; "Interpretation of Treaties by the International Court of Justice Following the Adoption of the 1969 Vienna Convention on the Law of Treaties", *Liber Amicorum Professor Seidl-Hohenveldern*, 1998; "La fonction de la Cour internationale de Justice: tendances actuelles du règlement judiciaire", in *Liber Amicorum Mohammed Bedjaoui*, 1999; "Are Prior Negotiations a General Condition for Judicial Settlement by the International Court of Justice?", in *Liber Amicorum in Memoriam of Judge José María Ruda*, 2000; "Acerca de las immunidades del Jefe de Estado o de Gobierno en derecho internacional y sus límites", in *El Derecho Internacional en los albores del siglo xxi, Homenaje al profesor Juan Manuel Castro-Rial*, 2002.

Awarded the Spanish Great Cross of Civil Merit (1987) and other foreign decorations (all after 1987).

Judge *ad hoc* Carl-August FLEISCHHAUER

(Judge *ad hoc* in the case concerning *Certain Property (Liechtenstein v. Germany)*)

Born in Düsseldorf, Germany, on 9 December 1930.

Studied at the Universities of Heidelberg, Grenoble and Paris. First State Examination (Law), Heidelberg (1954). Fulbright Scholar, University of Chicago Law School (1954-1955). Junior Barrister Düsseldorf/Heidelberg (1955-1959). Dr. jur., Heidelberg. Second State Examination (Law), Stuttgart (1960). Hague Academy of International Law (1960).

Research Fellow at the Max-Planck Institute for Comparative Public Law and International Law, Heidelberg (1960-1962).

Entered the foreign service of the Federal Republic of Germany in 1962. Foreign assignments to Tehran (1962-1963) and Montevideo (1969-1971). Official (1964-1969), Deputy Head (1971) and Head (1972), International Law Section, Legal Department, Federal Foreign Office. Principal Legal Adviser to the Federal Foreign Office and Director-General of the Legal Department (1976-1983).

Member of the Committee of Experts on Human Rights, Council of Europe, Strasbourg (1964-1967). Member of the delegation of the Federal Republic of Germany to the United Nations Conference on the Law of Treaties, Vienna (1968-1969). Observed Sixth Committee during parts of the twenty-third and twenty-fourth sessions of the General Assembly for the then Observer Mission of the Federal Republic of Germany (1968 and 1969). Member of the delegation of the Federal Republic of Germany to the United Nations General Assembly (twenty-eighth to thirty-third sessions as Adviser and Special Adviser, thirty-fourth to thirty-seventh sessions as Alternate Representative) (1973-1982). Alternate Representative and Representative of the Federal Republic of Germany in the Sixth Committee. Representative of the Federal Republic of Germany (1978-1979), on the *Ad Hoc* Committee of the Sixth Committee on the elaboration of the International Convention against the Taking of Hostages. Member of the delegation of the Federal Republic of Germany to the CSCE (Geneva Phase, Helsinki Final Phase) (1974-1975). Member (Vice-Chairman) of the delegation of the Federal Republic of Germany to the Diplomatic Conference on Humanitarian Law applicable in Armed Conflicts, Geneva (1974-1977). Head of the delegation of the Federal Republic of Germany to the United Nations Conference on State Succession in relation to Treaties, Vienna (1977-1978). Member (from 1977 Vice-Chairman) of the delegation of the Federal Republic of Germany to the Third United Nations Conference on the Law of the Sea (1974-1982). Has participated in numerous bilateral meetings and negotiations.

Under-Secretary-General for Legal Affairs, the Legal Counsel of the United Nations (1983-1994).

Member of the International Court of Justice from 6 February 1994 to 5 February 2003.

Was actively engaged, on the side of the Federal Republic of Germany, in the following cases before the Court: *North Sea Continental Shelf (Federal Republic of Germany/Denmark; Federal Republic of Germany/Netherlands)* (1967-1969); and *Fisheries Jurisdiction (Federal Republic of Germany* v. *Iceland)* (1972-1974). Was actively engaged, on the side of the United Nations, in the advisory cases on the: *Application for Review of Judgement No. 333 of the United Nations Administrative*

Tribunal (1984-1987); *Applicability of the Obligation to Arbitrate under Section 21 of the United Nations Headquarters Agreement of 26 June 1947* (1988); and *Applicability of Article VI, Section 22, of the Convention on the Privileges and Immunities of the United Nations* (1989).

Honorary member of the Indian Society of International Law (since 1985). Member of the German Society of International Law and, since 1977, of the Council of the Society. Member of the American Society of International Law. Member of the Société française pour le droit international. Former Member of the Curatorium of the Max-Planck Institute for International and Foreign Public Law, Heidelberg (1975-2003). Member of the Heidelberg Society for International and Foreign Public Law.

Awarded the German Cross of Merit, First Class, and several foreign decorations (all before 1983).

Author of numerous publications on international law.

Judge *ad hoc* Felipe H. PAOLILLO

(Judge *ad hoc* in the case concerning the *Application for Revision of the Judgment of 11 September 1992 in the Case concerning the* Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening) (*El Salvador v. Honduras*))

Born in Uruguay on 8 October 1931.

Doctor in Law and Social Sciences, Faculty of Law and Social Sciences at the University of Uruguay.

Legal Adviser in the Division of Legal Affairs, Secretariat of the United Nations, New York (1961-1964). Legal Adviser to the Ministry of Industry and Trade, Foreign Trade Division, Montevideo (1967-1974). Legal Advisor to the Third United Nations Conference on the Law of the Sea (New York, 1974-1983). Director, Deputy Special Representative of the Secretary General for the Law of the Sea (New York, 1983-1985). Director of the Diplomatic Academy of Uruguay, Ministry of Foreign Affairs (1985-1987). Deputy Executive Secretary of the United Nations Compensation Commission, Security Council (1991-1994). Director of the Division of International Organizations and Multilateral Affairs, Ministry of Foreign Affairs, Uruguay (1994-1996). Permanent Representative of Uruguay to the Food and Agriculture Organization of the United Nations (FAO) (1996-2000).

Ambassador of Uruguay to the Holy See (1996-2000). Ambassador, Permanent Representative of Uruguay to the United Nations, New York (1987-1990 and since 2000).

Registrar of the International Arbitral Tribunal for the delimitation of the maritime boundary between Canada and France (1990-1992). Member of the Permanent Court of Arbitration.

Consultant to the Latin American Free Trade Association (LAFTA) on procedures for the settlement of disputes (1971) and on harmonization of national legislation on export incentives (1973). Consultant to the Board of the Andean Pact on the establishment of the Court of Justice of the Cartagena Agreement (1972). Consultant to INTAL and the Central American Economic Integration Secretariat (SIECA) on institutional aspects of Central American economic integration (1973). Member of the Inter-American Group of Jurists of the Carnegie Endowment for International Peace for the study of modern problems related to the law of the sea and international economic relations (1970-1973). Member of the Inter-American Development Bank on arbitration in Latin America (1991).

Representative of the Government of Uruguay to Meetings of Legal Experts of the Latin-American Free Trade Association (LAFTA) (1967-1969) and the River Plate Basin (1968-1972); to the Montevideo Meeting on the Law of the Sea (1970); to the United Nations Conference on the Environment (Stockholm, 1972); to the Meeting of the Group of 77 preparatory to UNCTAD II (Lima, 1972); to the 42nd, 43rd and 44th sessions of the General Assembly of the United Nations (New York). Vice-President of the Economic and Social Council of the United Nations (New York, Geneva, 1989). Representative of Uruguay to the Second Meeting of the Group of Experts on the Law of the Sea of the States Members of the Zone of Peace and Co-operation of the South Atlantic (Montevideo, 1991); to the XIVth Assembly of the Agency for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (Santiago de Chile, 1995); to the Fourth Meeting of the Parties to the Zone of Peace and Co-operation of the South Atlantic (Capetown, South Africa, 1996); to the Second Conference of the Parties to the Framework Convention on Climate Change (Geneva, 1996); to the United Nations Conference of Plenipotentiaries on the Establishment of an International Criminal Court (Rome, June-July 1998); and to the First, Second and Third Sessions of the Assembly of the Parties to the Statute of Rome (International Criminal Court).

Professor of Public International Law, Faculty of Law, University of Uruguay (1964-1974; 1985-1987; 1995). Professor of History of International Relations and Treaties, Faculty of Law, University of Uruguay (1969-1971). Associate Professor at the School of Law of the New York University (1977-1984). Professor of "International Institutions" and "Contemporary International Relations" at the ORT University, Montevideo (1995-1996). Professor, director or lecturer, at the Hague Academy of International Law, at the University of Paris I and Paris II, the University Complutense (Spain), the Institute of Public International Law and International Relations of Thessaloniki (Greece), the Inter-American Juridical Committee and the Euro-Mediterranean Bancaja of International Law (Castille, Spain).

Member of the Institut de droit international; of the Société française pour le droit international; of the Instituto Hispano-Luso-Americano de Derecho Internacional; of the Asociación Uruguaya de Derecho Internacional; of the Asociación Argentina de Derecho Internacional and of the Inter-American Federation of Lawyers.

Author of numerous publications: *Curso de Historia de los Tratados*, Vol. I, 1966; *Curso de Historia de los Tratados*, Vol. II (with H. Arbuet and R. Hecht), 1975; *Las reglas y principios que rigen la utilización de las agues fluviales internacionales*, 1969; "La cláusula de la nación mas favorecida y los países de menor desarrollo el ALALC y en el Pacto Andino", in *América Latina y la cláusula de la nación mas favorecida*, ed. Orrego Vicuña, 1971, reprinted in *Derecho Internacional Económico*, Vol. I, 1974; *Los tratados como fuente de derecho internacional*, with Eduardo Jiménez de Aréchaga, 1971; *Efectos, interpretación y extinción de los tratados*, with Eduardo Jiménez de Aréchaga, 1971; "The Preparatory Commission for the International Sea-Bed Authority and for the International Tribunal for the Law of the Sea", in Budislav Vukas, ed., *Essays on the New Law of the Sea*, 1985; "Reclamaciones colectivas internacionales: El caso de los damnificados por la crisis del Golfo", in *International Law in an Evolving World, Liber Amicorum for Professor Eduardo Jiménez de Aréchaga*, 1994; "Derechos Humanos y Reparación", *Liber Amicorum for Dr. Héctor Gros Espiell*, 1996; "El Consejo de Seguridad en los procedimientos de la Corte Penal Internacional", *Liber Amicorum 'in memoriam' of Judge José María Ruda*, 1999; Accesco de los individuos a los tribunals y otros órganos internacionales", Cursos del Comité Jurídico Interamericano, Washington, 2001; "El uso de la fuerza en la práctica de las Naciones unidas", Cursos del Comité Jurídico Interamericano, Washington, 2003.

Judge *ad hoc* Ahmed Sadek El-Kosheri

(Judge *ad hoc* in the cases concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie* (*Libyan Arab Jamahiriya* v. *United Kingdom*) and *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie* (*Libyan Arab Jamahiriya* v. *United States of America*))

Born at Cairo, Egypt, on 4 April 1932.

Licencié en Droit, Faculté de Droit (1952), D.E.S. Droit Musulman (1954), D.E.S. Droit Privé (1955), D.E.S. Droit Public (1956), Cairo University. D.E.S. en Sciences Politiques (1957), Diplôme de Droit Comparé (1959), Paris University. D.E.S. en Histoire et Philosophie de Droit (1960), Doctorat d'Etat en Droit (1962), Rennes University.

Faculty Member of the Law School, Ain Shams University, Cairo (1958-1974). Visiting Professor, Beirut Arab University (1963-1964) and Nanterre University (Paris X) (1987-1988). Professor of International Economic Law and former President of Senghor University, Alexandria.

Partner of Kosheri, Rashed and Riad law firm, Cairo.

Member of the Egyptian Conseil d'Etat (1952-1958). Legal Adviser of the Ministry of Oil and Finance, Kuwait (1968-1969). Founding General Counsel of the Arab Fund for Economic and Social Development, Kuwait (1973-1974). Secretary-General of the Islamic Development Bank, Jeddah (1978).

Member of the Institut de droit international. Member of the Council for International Commercial Arbitration (ICCA). Vice-President of the Euro-Arab Arbitration System. Member of the Scientific Council of the International Business Law Institute, International Chamber of Commerce, Paris. Vice-President of the ICC Court of Arbitration. Former Judge at the Administrative Tribunal of the African Development Bank. Member of the ICSID Panel of Arbitrators and Conciliators.

Author of numerous books and articles on general public international law, international commercial law and on international arbitration.

Judge *ad hoc* Diego GONZÁLEZ CAMPOS

(Judge *ad hoc* in the case concerning *Maritime Delimitation between Nicaragua and Honduras in the Caribbean Sea (Nicaragua* v. *Honduras)*)

Born at Alcala de Guadaira (Seville, Spain) on 5 April 1932.

Licenciado in law (1955), Doctor of Law (1960), University of Seville. Diploma from the Hague Academy of International Law (1960), public international law session. Doctor *honoris causa* of the University of Salamanca (2000) and of the University of Oviedo (2001).

Participation in the Hague Academy's Research Centre (1961, on waterways of international interest, and, 1962, on State succession). Research on international law at the United Nations Library in Geneva (1961, 1970), at the Peace Palace Library in The Hague (1964, 1967, 1980, 1986) and at the Max-Planck Institute in Hamburg (1976).

Teaching Assistant at the Universities of Seville (1957-1961) and Madrid (1961-1963). Deputy Professor at the University of Madrid (1963-1972). Professor of international public and private law at the University of Oviedo (1972-1979). Professor of private international law (since 1979). Dean of the Faculty of Law (1980-1982) and Rector (1982-1984) of the Universidad Autonoma de Madrid. Member of the Universities Council, following election by the Parliament (1985-July 1992). Member of the Unesco Advisory Committee for Higher Education (1988-1991). Henri Rolin Professor of the Vrije Universiteit Brussel (1984). Visiting Professor at the University of Naples (1989) and the University of Paris II (1990). Lectured at the Hague Academy of International Law (1977) and delivered general course on private international law (1987).

Member of the Spanish Constitutional Court, following election by the Parliament (1992-2001).

Delegate of Spain to the United Nations Conference on the Law of Treaties (1968-1969), to the Preparatory Commission (1971-1973) and to the United Nations Conference on the Law of the Sea (1974). Member of the Spanish delegation in the negotiations with the French Republic concerning the continental shelf delimitation (Paris Convention of 29 January 1974). Delegate of Spain to the Hague Conference on Private International Law (1972, 1976, 1980, 1985 and 1988). President of the Hague Conference Commission for Policy and General Affairs (1988).

Representative of Spain before the International Court of Justice in the advisory opinion on the *Western Sahara* (1975).

Counsel to the Government of the Republic of Honduras in the mediation procedure with the Republic of El Salvador (1976-1980) and in the case concerning the *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening)* before the International Court of Justice (1986-1991). Counsel to the Government of the State of Qatar in the case concerning *Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar* v. *Bahrain)* (from 1989 until July 1992) and for the Government of the Libyan Arab Jamahiriya in the case concerning the *Territorial Dispute (Libyan Arab Jamahiriya/Chad)* (from 1990 to July 1992) before the International Court of Justice. Counsel to the Government of the Republic of Argentina in the *Límite entre el Hito 62 y el Monte Fitz Roy* case (from 1990 to July 1992).

Associate (1989) and Member (1995) of the Institut de droit international. Director of the *Revista Española de Derecho internacional* (1991-1997). Vice-President (1988-1991) and President (1991-1993) of the Spanish Association for professors of international law and international relations.

Member of the General Commission for Codification, Ministry of Justice (since 1981). Member of the Executive Board of the Prado Museum (1983-1993).

Author of numerous works on public international law, private international law, EC law and constitutional law.

Judge *ad hoc* L. Yves Fortier

(Judge *ad hoc* in the case concerning the *Territorial and Maritime Dispute (Nicaragua* v. *Colombia)*)

Born in Quebec, Canada, on 11 September 1935.

Bachelor of Arts *summa cum laude* of the University of Montreal (1955). Bachelor of Civil Law, McGill University (1958); and Bachelor of Letters as a Rhodes Scholar at Oxford University (1960). Doctor of Laws *honoris causa*, the Law Society of Upper Canada (1989), Acadia University (1992), the University of British Columbia (1993) and the University of Montreal (1999). Doctor of Commerce *honoris causa*, Ryerson University (2004).

Admitted to the Bar of the Province of Quebec (1961). Joined at that time the predecessor firm of Ogilvy Renault of which he is Chairman since 1992. Queen's Counsel (1976). Officer of the Order of Canada (1984); elevated to the level of Companion in the Order (1991). Awarded the Médaille d'Or of the Quebec Bar (1992). President's Award of the Canadian Bar Association (1993).

Pleaded important cases before all court jurisdictions in Canada and before domestic as well as international arbitral panels.

Served as an arbitrator on many international arbitration panels constituted by various arbitration centres, including the International Chamber of Commerce (Paris), the London Court of International Arbitration, the American Arbitration Association, the Chamber of Commerce of Zurich and the International Centre for the Settlement of Investment Disputes (ICSID).

Counsel for Canada before the International Court of Justice in the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America)* (1984).

Since being called to the Bar, has served as Counsel to many Royal Commissions and Commissions of Inquiry in Canada. Canada's Chief Negotiator in the Canada-France fishing dispute (1987-1989). Counsel for Canada before the *ad hoc* International Panel of Arbitrators constituted to determine the maritime boundary between Canada and France in the North Atlantic (1991). Canada's Chief Negotiator for the Canada-United States Pacific Salmon Treaty negotiations (1993-1998). Special Negotiator of the Government of Quebec to the Cree Nation (1993). Appointed by the Security Council of the United Nations as Chairman of Panel C of the United Nations Compensation Commission in Geneva (Iraq-Kuwait) (1993) and of Panel F-3 E/F (1999). Counsel for Canada in the mediation of the Canada-United States Pacific Salmon dispute (1995). Secretary-General's Special Envoy to Malaysia (1997). Member of the Claims Resolution Tribunal for Dormant Accounts in Switzerland (1998). Member of the Board of the International Accounting Standards Committee (since May 2000). Personal representative and mediator of the Secretary-General in the border dispute between Gabon and Equatorial Guinea (2003).

Canada's Ambassador and Permanent Representative to the United Nations in New York (1988-1992). Canada's Chief Delegate to the 43rd, 44th, 45th and 46th Sessions of the United Nations General Assembly (1988-1991). Vice-President of the 45th General Assembly (1990). Canada's Representative to the Security Council of the United Nations (1989-1990). President of the Council (1989).

Member of the Board of Directors of Alcan Inc., the Royal Bank of Canada (Chairman), Hudson's Bay Company (Governor), Nortel Networks Corporation and Nova Chemicals Corporation. Former Governor of McGill University and former administrator of the Institut neurologique de Montréal and of the Institut de recherches cliniques de Montréal. Member of the Board of Directors of several non-profit organizations including the Council for Canadian Unity, the C. D. Howe Institute, the Canadian Foundation for AIDS research (CANFAR) and the Canadian Institute for Advanced Legal Studies. One of the Founding Directors of the Canadian Bar Association Law for the Future Fund and Honorary Patron of the International Centre for Human Rights and Democratic Development. Member of the Board of Directors of the International Peace Academy and the United Nations International School. Member of the Executive Board of the International Association of Permanent Representatives to the United Nations (1989).

Member of numerous professional organizations, including the Canadian Bar Association, which he headed as National President in 1982-1983, the American Bar Association (honorary), the International Commission of Jurists (Canadian Section), the International Bar Association, the Union Internationale des Avocats, the ICC Institute of International Business Law and Practice, the International Law Association (Canadian Branch), the American College of Trial Lawyers (member of the Board of Regents, 1992-1996) and the American Society of International Law.

During past years, has concentrated activities in the field of international arbitration. President of the London Court of International Arbitration (1998-2001). Member of numerous institutions for international arbitration. Member of the CPR International Panel of Distinguished Neutrals, the Quebec National and International Commercial Arbitration Centre (Chairman, Committee of Experts), the British Columbia International Commercial Arbitration Centre (member, Panel of Arbitrators), the International Council for Commercial Arbitration (ICCA), the Court of Arbitration for Sport (CAS), the Legal Service and Research Centre (LSRC), and the International Arbitration Club (London). Has been appointed in 2001 by the President of the Board of Directors of the ICSID as conciliator and arbitrator.

Member of the Permanent Court of Arbitration (1984-1989). Legal Adviser to the Commission on Civil Governance in Geneva (1992-1995). Member of the Trilateral Commission (member of the North American Executive Committee (since 1993)).

Judge *ad hoc* Christopher J. R. Dugard

(Judge *ad hoc* in the case concerning *Armed Activities on the Territory of the Congo (New Application: 2002) (Democratic Republic of the Congo v. Rwanda)* and in the case concerning *Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore)*)

Born in Fort Beaufort, South Africa, on 23 August 1936.

B.A. (1956) and LL.B. (1958), University of Stellenbosch; LL.B. (1965), Diploma in International Law (1965) and LL.D. (1980), Cantab.;

LL.D. *(honoris causa)* of the Universities of Natal (1990), Cape Town (1996), Port Elizabeth (2003), Witwatersrand and Pretoria (2004).

Lecturer in Law, University of Natal, Durban (1961-1963). Senior Lecturer in Law (1965-1969); Professor of Law (1969-1998); Chairman of the Governing Committee of the School of Law (1972-1974, 1978); Dean of the Faculty of Law (1975-1977); Director of the Centre for Applied Legal Studies (1978-1990) and Professor Emeritus (since 1998) of the University of the Witwatersrand. Professor, honorary, University of Pretoria (since 2000). Professor, honorary, University of the Western Cape (since 2001).

Tutor in Roman Dutch Law, University of Cambridge (1964-1965); Visiting Professor of Public and International Affairs, Woodrow Wilson School of Public and International Affairs, University of Princeton (taught course in Comparative Civil Rights) (1969); Visiting Professor of Law, Duke University (taught courses in Jurisprudence, International and Criminal Law) (1974-1975); Visiting Professor of Law, University of California, Berkeley (Boalt Hall) (taught course in International Protection of Human Rights) (1981); Visiting Fellow, Research Centre for International Law, University of Cambridge (1985); Visiting Professor of Law, University of Pennsylvania (taught courses in International Law and International Human Rights Law) (1989); Visiting Professor of Law, University of New South Wales, Australia (taught course in International Law) (1991); Arthur Goodhart visiting Professor of Legal Science, University of Cambridge (taught LL.M. course in International Criminal Law) (1995-1996); Fellow, Sidney Sussex College, Cambridge (1995-1997); Director, Lauterpacht Research Centre for International Law, University of Cambridge (1995-1997); and Professor of Public International Law, University of Leiden (since 1998).

Admitted as an advocate of the Supreme Court of South Africa (1959); practised at the Durban Bar (1961-1963); part-time consultant and advocate, principally in the fields of international law, human rights and constitutional law (since 1963); appointed Senior Counsel (since 1998).

President of the South African Institute of Race Relations (1978-1980); Member of National Administrative Committee of the South African Institute of International Affairs (1987-1997); Founder and Member of the National Council of Lawyers for Human Rights (1980-1991); Commissioner of the Human Rights Commission (1988-1989); Board Member of the Independent Board of Inquiry (1990-1994); Chancellor to Bishop Tutu, Diocese of Johannesburg (Anglican) (1985-1987); Member of the Council of the University of Fort Hare (1990-1998); Member of the Technical Committee for Investigating the Repeal or Amendment of Legislation Impeding Free Political Activity and Discriminatory Legislation (part of negotiations for Interim Constitution) (1993); Member of the Technical Committee to advise the Constitutional Assembly on the Drafting of a Bill of Rights for the 1996 Constitution (1995).

Member of the Study Committee on International Protection of Human Rights of the American Society of International Law (1973-1975); Member of the Committee on International Terrorism, International Law Association (1974-1984); Member of the Committee on Extradition and International Terrorism (1985-1988); Co-Rapporteur to the Committee on Extradition and Human Rights (1992-1998); President of the South African Branch of the International Law Association (1993-1995, 1998); Member of the Governing Body of the African Society of International and Comparative Law (since 1995). Member of Institut de droit international (since 1999). Member of the International Law Commission (since 1996); Rapporteur and Member of the Bureau (1997-1998); Special Rapporteur on Diplomatic Protection (since 1999). Member of Panel of Experts for Study on Customary Rules of International Humanitarian Law of the International Committee of the Red Cross (1997). Chairman of the Inquiry Commission established by the Commission on Human Rights to investigate violations of Human Rights and Humanitarian Law in the Occupied Palestinian Territories (2000-2001); Special Rapporteur to the Commission on Human Rights on the situation of Human Rights in the Occupied Palestinian Territories (since 2001).

Author of numerous books and articles on international law.

Judge *ad hoc* Ahmed MAHIOU

(Judge *ad hoc* in the case concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)* and in the case concerning *Ahmadou Sadio Diallo (Republic of Guinea v. Democratic Republic of the Congo)*)

Born in Bouira, Algeria, in 1936.

University studies in law and political science, Toulouse (1958-1964). Doctor of Law, Nancy (1967). *Agrégation* in public law and political science, Paris (1968). Doctor *honoris causa*, University of Toulouse.

Teaching assistant, lecturer and professor at the University of Algiers and the Ecole nationale d'administration (1964-1990). *Doyen* of the Faculty of Law and Economic Science of Algiers (1970-1973). *Professeur associé* at the University of Aix-en-Provence (1981-1983) and the University of Dijon (1990-1991).

Director of the Institut de recherches et d'études sur le Monde arabe et musulman (IREMAM) (1992-1997); Director of Research emeritus (since 1997).

Teaching assignments at numerous universities and institutes in Europe, Africa and the Middle East: Universities of Rabat, Casablanca, Tunis, Antananarivo, Paris I, Nanterre, Toulouse, Leipzig, Montpellier, Beirut, IHEI Paris and IHEI Geneva. Courses at the Hague Academy of International Law (The Hague, 1993) (Abidjan, 1996) and seminar (2003); courses at the Euromediterranean Academy of International Law, Castellon (Spain, 1999), the International Academy of Constitutional Law (Tunis, 1988 and 2001), and the Institute of International Law and International Relations (Thessaloniki, 2004).

Joint Director of the DEA (postgraduate course) in international law at the University of Aix-Marseille III. Head of a number of research programmes relating to international law and international relations, administrative law, economic law, and constitutional law. Member of the board of advisers of a number of academic institutions and of several academic publications.

Participated in international conferences organized by the United Nations (environment, law of the sea) and in Unesco general conferences. Member of the Board of Trustees and of the Advisory Committee of the United Nations Voluntary Fund for Indigenous Populations. Member of the United Nations International Law Commission (1982-1996) and Chairman of session (1996).

International arbitrator (ICC and *ad hoc* arbitration); Vice-Chairman of the Unesco Appeals Board; Vice-Chairman of the Arbitration Committee of the Franco-Arab Chamber of Commerce. Vice-Chairman of the National Commission for Justice Reform (Algeria).

Member of the Institut de droit international. Founder-member or member of a number of international learned societies.

Consultant for the Comité permanent consultatif maghrébin (1970), for the Algerian Ministries of Foreign Affairs, of Agriculture, of Industry, of Justice and of Higher Education, and for the Algerian Conseil économique et social. Produced expert studies for the Comité permanent consultatif maghrébin, UNITAR (1975), Unesco (1980), UNIDIR (1990), UNDP (1997), IBRD (2002) and the European Union.

Author of the following publications: *L'avènement du parti unique en Afrique noire: l'expérience des Etats d'expression française*, 1969; *Problèmes actuels de l'Unité africaine*, 1973; *Cours d'institutions administratives* and *Cours de contentieux administratif*, 1984; *La formation des normes en droit international du développement*, 1984; "Droits de l'homme et développement dans les constitutions africaines", in *Cours de l'Académie internationale de droit constitutionnel*, 1989; "Le cadre juridique de la coopération Sud-Sud. Quelques expériences ou tentatives d'intégration", in *Recueil des cours*, Hague Academy of International Law, Vol. 241, 1993; *L'état de droit et le monde arabe*, 1996; "Multilatéralisme, droits de l'homme et globalité méditerranéenne", in *Recueils de textes avec une introduction*, Unesco, Vol. III, Tomes 1 and 2 (with N. Bachi), 1998; *La codification du droit international*, 1999; "Droit international et développement", in *Cours euro-méditerranéens, Bancaja de droit international*, 2000; *Où va l'Algérie?*, 2001; and "Droit international et droit constitutionnel: de la non-intervention à la bonne gouvernance", in *Cours de l'Académie internationale de droit constitutionnel*, 2002.

Author of numerous other articles.

Algerian Medal of Scientific Merit.

Judge *ad hoc* Budislav VUKAS

(Judge *ad hoc* in the case concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia* v. *Serbia and Montenegro)*)

Born in Rijeka/Sušak, Croatia, on 1 January 1938.

LL.B. (1961), LL.M. (1965), Doctor of Law (International Law) (1974), Faculty of Law, University of Zagreb; attended courses at the Hague Academy of International Law (1961 and 1968-1970); participated in the Centre of the Academy for Studies and Research (International Law and International Relations) (1967).

Professor of Public International Law, Faculty of Law, University of Zagreb (Assistant 1963-1970, Lecturer 1970-1974, Assistant Professor 1974-1977, Professor since 1977); lectured at the Universities of Belgrade, Bologna, Boston, Brest, Ljubljano, Maribor, Milan, Osijek, Paris, Parma, Rijeka, Rome, Split, Thessaloniki, Tilburg and Valletta; directed a course on the law of the sea at the Dubrovnik Inter-University Centre (1984-2001); delivered a course on "States, Peoples and Minorities" at the Hague Academy of International Law (1992, *Recueil des cours*, Vol. 231); delivered courses at the Rhodes Academy of Oceans Law and Policy (1999-2001 and 2004); delivered a course on intervention in contemporary international law at the Bancaja Euromediterranean Courses of International Law (Castellón, 2003). Consultant for UNEP, Nairobi (1981 and 1991) and its Co-ordinating Unit for the Mediterranean Action Plan, Athens (1985 and 1990); participated in: Third United Nations Conference on the Law of the Sea (1975-1982); Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea (1984-1990 and 1994); International Seabed Authority (1994-1996); Meeting of the States Parties to the United Nations Convention on the Law of the Sea (1994-1996); the Sixth Committee of the United Nations General Assembly (1990, 1991, 1995); Working Group on the United Nations Decade of International Law of the Sixth Committee of the United Nations General Assembly (chairman 1990); CSCE Conference on the Human Dimension, Copenhagen Meeting (1990); CSCE Meeting of Experts on National Minorities, Geneva (1991); World Conference on Human Rights, Vienna (1993); 26th International Conference of the Red Cross and Red Crescent (1995).

Member of the Permanent Court of Arbitration (1989-1991 and since 1999); the International Tribunal for the Law of the Sea (since 1996); the Committee of Experts on the Application of Conventions and

Recommendations of the International Labour Organisation (since 1985); the Commissions of Inquiry formed under Article 26 of the Constitution of the International Labour Organisation to examine the observance by Romania of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (1989-1991) and the observance by Belarus of the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87) and the Right to Organize and Collective Bargaining Convention, 1949 (No. 98) (2004); the Court of Conciliation and Arbitration within the OSCE (since 1995); and the European Commission for Democracy through Law (1990-1991).

Associate Member (1991-1997) and Member (since 1997) of the Institut de droit international. Member of the Croatian Society of International Law (since 1961); the Société française pour le droit international (since 1978); the Argentine Society of International Law (since 2002); the Croatian Academy of Juridical Sciences (established in 2001); the International Council of Environmental Law, Bonn (since 1978); the Scientific Council of the European Institute for Marine Studies, Brest, France (since 1997); and the Scientific Council of the Institut de droit économique de la mer, Monaco (since 2000).

Author of numerous books, monographs, articles and papers in various fields of public international law, in particular law of the sea, international environmental law, international protection of human rights and national minorities, including *The Relativity of Treaties* (in Croatian), 1975; *Ethnic Minorities and International Relations* (in Croatian), 1978; *The New Law of the Sea* (ed., in Croatian), 1982, *Essays on the New Law of the Sea*, Vols. I-III (ed.), 1985-1996, *The Legal Regime of Enclosed or Semi-Enclosed Seas. The Particular Case of the Mediterranean* (ed.), 1988, *International Law*, Vol. I (with J. Andrassy and B. Bakotić, in Croatian), 1995; *Law of the Sea: Selected Writings*, 2004.

Judge *ad hoc* Giorgio GAJA

(Judge *ad hoc* in the cases concerning *Legality of Use of Force (Serbia and Montenegro* v. *Italy)* and *Maritime Delimitation between Nicaragua and Honduras in the Caribbean Sea (Nicaragua* v. *Honduras)*)

Born in Lucerne, Switzerland, on 7 December 1939. Italian nationality.

Degree in law, University of Rome (1960). *Libera docenza* in international law (1968). Honorary Doctor of Law, Dickinson Law School (1985).

Professor of International Law, University of Florence (since 1974), Dean of the Law School (1978-1981).

Lecturer, Hague Academy of International Law (1981). Part-time Professor, European University Institute (1980 and 1984-1985). Visiting Professor, Johns Hopkins University (1977-1978), University of Geneva (1983 and 1985), University of Paris I (1989 and 2000), University of

Aix-Marseille III (1992), Graduate Institute of International Studies (2001); University of Michigan School of Law (1992), and Columbia Law School (1996).

Member of the International Law Commission (since 1999). Delegate of the Italian Government to the Vienna Conference on the Law of Treaties between States and International Organizations and between International Organizations (1986). Counsel to the Italian Government in the *ELSI* case before the International Court of Justice.

Member of the Institut de droit international. Editor of the *Rivista de diritto internazionale*. Member of the Advisory Board of the *Common Market Law Review*, *European Journal of International Law* and *Columbia Journal of European Law*.

Principal publications: *L'esaurimento dei ricorsi interni nel diritto internazionale*, 1967; *La deroga alla giurisdizione italiana*, 1971; *International Commercial Arbitration. The New York Convention* (edited looseleaf volumes), 1978 (updated); *Introduzione al diritto comunitario*, 3rd ed., 2003; "River Pollution in International Law", *Hague Academy of International Law Colloquium, The Protection of the Environment and International Law*, 1975; "Considerazioni sugli effetti delle sentenze di merito della Corte internazionale di giustizia", *Comunicazioni e studi*, Vol. XIV, 1975; "Reservations to Treaties and the Newly Independent States", *Italian Yearbook of International Law*, Vol. I, 1975; "The European Community's Participation in the Law of the Sea Convention: Some Incoherencies in a Compromise Solution", *Italian Yearbook of International Law*, Vol. 5, 1980-1981; "Jus Cogens beyond the Vienna Convention", Hague Academy of International Law, *Recueil des cours*, Vol. 172, 1981; "The European Community's Rights and Obligations under Mixed Agreements", *Mixed Agreements*, 1983; "Effets directs et réciprocité dans la jurisprudence concernant l'accord entre la Communauté européenne et la Suisse", *Annuaire suisse de droit international*, Vol. XL, 1984; "Instruments for Legal Integration in the European Community — A Review" (with P. Hay and R. D. Rotunda), *Integration through Law. Europe and the American Federal Experience*, 1986, Vol. 1.2; "Principi generali del diritto (diritto internazionale)", *Enciclopedia del diritto*, Vol. XXXV, 1986; "Unruly Treaty Reservations", *International Law at the Time of Its Codification. Essays in Honour of Roberto Ago*, 1987, Vol. I; "Italy", *The Effect of Treaties in Domestic Law*, 1987; "A 'New' Vienna Convention on Treaties between States and International Organizations or between International Organizations: A Critical Commentary", *British Year Book of International Law*, Vol. 58, 1987; "Obligations Erga Omnes, International Crimes and Jus Cogens: A Tentative Analysis of Three Related Concepts", *International Crimes of States*, 1989; "New Developments in a Continuing Story: The Relationship between EEC Law and Italian Law", *Common Market Law Review*, Vol. 27, 1990; "Measures against Terrorist Acts under International Law", *Maritime Terrorism and International Law*, 1990; "Positivism and Dualism in Dionisio Anzilotti", *European Journal of*

International Law, Vol. 3, 1992; "Réflexions sur le rôle du Conseil de sécurité dans le nouvel ordre mondial. A propos des rapports entre maintien de la paix et crimes internationaux des Etats", *Revue générale de droit international public*, 1993; "La Convention européenne des droits de l'homme dans les ordres juridiques des Etats membres de la Communauté européenne", *Grundrechtsschutz im europäischen Raum*, 1993; "Beyond the Reasons Stated in Judgments", *Michigan Law Review*, Vol. 92, 1993-1994; "The Protection of Human Rights under the Maastricht Treaty", *Institutional Dynamics of European Integration. Essays in Honour of Henry G. Schermers*, 1994, Vol. II; "Use of Force Made or Authorized by the United Nations", *The United Nations at Age Fifty. A Legal Perspective*, 1995; "Some Reflections on the European Community's International Responsibility", *The Actions for Damages in Community Law*, 1997; "Identifying the Status of General Principles in European Community Law", *Scritti in onore di Giuseppe Federico Mancini*, 1998; "How Flexible Is Flexibility under the Amsterdam Treaty?", *Common Market Law Review*, Vol. 35, 1998; "Restraints Imposed by European Community Law on the Treaty-Making Power of the Member States", *Dealing with Integration*, Vol. 2, 1998; "Does the European Court of Human Rights Use Its Stated Methods of Interpretation?", *Studi in onore di Francesco Capotorti*, 1999; "Trattati internazionali", *Digesto delle discipline pubblicistiche*, Vol. XV, 1999; "New Instruments and Institutions for Enhancing the Protection of Human Rights in Europe?", *The EU and Human Rights*, 1999; "Expulsion of Aliens: Some Old and New Issues in International Law", *Cursos Euromediterráneos Bancaja de Derecho Internacional*, Vol. III, 1999; "Deliberating on Questions of Jurisdiction in the International Court of Justice", *Liber Amicorum Judge Shigeru Oda*, 2002; "The Long Journey towards Repressing Aggression", *The Rome Statute of the International Criminal Court: A Commentary*, 2002.

Judge *ad hoc* Sir Franklin Berman

(Judge *ad hoc* in the case concerning
Certain Property (Liechtenstein v. *Germany)*)

Born in Cape Town, South Africa, on 23 December 1939.

Knight Commander of the Order of St. Michael and St. George (KCMG) (1994) (CMG, 1986).

University of Cape Town, B.A. (1959), B.Sc. (with distinction) (1960). Rhodes Scholar (Cape Province) (1961). University of Oxford: B.A. 1st Class honours (1963), Martin Wronker Prize; M.A. (1965).

Honorary Scholar, Wadham College, Oxford (1963); Honorary Fellow (1995); Fellow (2000).

J.C. Smith Visiting Fellow, University of Nottingham (1992).

Visiting Professor of International Law, University of Oxford (since 2000); University of Cape Town (since 2000); King's College, London (since 2002).

Called to the English Bar (1966); Queen's Counsel (Hon.) (1992); Honorary Bencher, Middle Temple (1997).

Her Majesty's Diplomatic Service (1965-1999): Assistant Legal Adviser, Foreign Office (later Foreign & Commonwealth Office) (1965); Legal Adviser, British Military Government, Berlin (1971); Legal Adviser, British Embassy, Bonn (1972); Legal Counsellor, Foreign & Commonwealth Office (1974); Counsellor and Legal Adviser, United Kingdom Mission to the United Nations (1982); Deputy Legal Adviser, Foreign & Commonwealth Office (1988); Legal Adviser to the Foreign & Commonwealth Office (1991-1999).

Chairman, Diplomatic Service Association (1979-1982).

United Kingdom Alternate Representative on the General Assembly, Security Council and Trusteeship Council (1982-1985); represented the United Kingdom on the Sixth Committee; Host Country Committee; Committee on Review of Applications for Advisory Opinions from Judgments of the United Nations Administrative Tribunal; Legal Subcommittee of the Outer Space Committee; Legal Subcommittee of the Seabed Committee; IAEA Safeguards Committee; Unesco Committee on Ocean Data Stations; Third United Nations Conference on the Law of the Sea; Consultative Meetings of Antarctic Treaty Parties.

Leader, United Kingdom Delegation: United Nations Conference on Treaties between States and International Organizations and between International Organizations (1986); CSCE Meetings of Experts on the establishment of a mechanism for the peaceful settlement of disputes (1978); International Conference of the Red Cross and Red Crescent (1995); Conference on the Establishment of an International Criminal Court (1998).

Deputy Agent, United Kingdom/French Arbitration on the Delimitation of the Continental Shelf (1975-1978); Agent, Young Loan Arbitration (1976-1980); United Kingdom Agent before the International Court of Justice in the case concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United Kingdom)*; participated in the proceedings on the Advisory Opinion on *Legality of the Threat or Use of Nuclear Weapons*; Agent and Counsel, *Legality of Use of Force (Serbia and Montenegro* v. *United Kingdom)*.

Member of the ICSID Panel of Arbitrators under Section Four of the Washington Convention; arbitrator in cases and annulment proceedings under the ICSID, ICC and LCIA.

Chairman, Diplomatic Service Appeal Board (United Kingdom); Chairman, Appeal Boards of Western European Union and of the International Oil Pollution Compensation Funds; Chairman, Claims Committee of the General Settlement Fund of the Republic of Austria for the Compensation of Victims of Nazi Persecution.

Chairman, International Law Association Committee on the Accountability of International Organizations (2000-2004); Chairman, Advisory Group on International Law, Royal Institute of International Affairs (Chatham House).

Member of the governing bodies of the British Institute of International & Comparative Law, American Society of International Law, Centre for European and Comparative Law (Oxford); Trustee: Greenwich Foundation for the Royal Naval College, the Whittuck Trust.

Member of the Editorial Board, *British Year Book of International Law*.

Editor, McNair's *The Law of Treaties*.

Author of articles and reviews in learned journals, and chapters in collected essays on various topics in international law and international organization.

Judge *ad hoc* Bernardo SEPÚLVEDA

(Judge *ad hoc* in the case concerning *Avena and Other Mexican Nationals (Mexico* v. *United States of America)*)

Law Degree, *Magna cum Laude*, Faculty of Law, Universidad Nacional Autonoma de México (1964). Master's Degree in International Law, Cambridge University (1966) and Diploma in International Law from the same university.

Professor of International Law and of International Organizations at El Colegio de México in Mexico City (since 1967); Associate Research Fellow.

Held various functions in the Mexican Government: Deputy Director for Legal Affairs for the Secretary of the Presidency (1968-1970); Director of the Foreign Investment Programme at the Ministry of Finance (1971-1975), then Director General for International Affairs; Principal Advisor on International Affairs to the Secretary of the Budget (appointed in 1981).

President of the United Nations Commission on Transnational Corporations (1980). Rapporteur of the United Nations Intergovernmental Working Group on a Code of Conduct for Transnational Corporations (1978-1980). Mexican representative to the United Nations Commission on Transnational Corporations (1977-1981). Member of the Mexican Delegation to the annual meetings of the International Monetary Fund, the World Bank and the Interamerican Development Bank, as well as the Group of 24 (1976-1980).

Secretary of Foreign Relations of Mexico (1982-1988). Acted during this period as President of the Mexican delegations to the General Assembly of the United Nations and of the Organization of American States, as well as of other international regional and global organizations. Attended, among others, the United Nations Conference on the Law of the Sea, the Vienna Conference on the Law of Treaties and several United Nations Conferences on Disarmament. Member of the Mexican delegation to the 1981 Cancun Meeting of Heads of State and Government.

As Foreign Secretary, chaired the Binational Commission between Mexico and the United States of America; established the Contadora Group as a diplomatic instrument to bring peace and stability to Central America, together with the Foreign Ministers of Argentina, Brazil, Colombia, Panama, Peru, Uruguay and Venezuela; and took part in the creation of the Group of Eight, now the Rio Group, an institution devoted to promote Latin American co-operation.

Ambassador of Mexico to the United States of America (1982-1989). Ambassador of Mexico to the United Kingdom and, concurrently, to Ireland (1989-1993).

Member of the United Nations International Law Commission (since 1996).

Member of the Board of Directors for the State-owned oil and gas company Petróleos Mexicanos (PEMEX) (1982-1988) and of the governmental trust to promote tourism in Mexico, Fondo Nacional de Fomento al Turismo (FONATUR). General Counsel for the Mexican engineering company ICA (since 1997); Member of the company's Board of Directors and its Executive Committee; Member of the Board of Directors of ICA-Flour Daniel.

Co-founder of the Research Centre on the United States at the Centro de Investigaciones y Docencia Económica (CIDE) (1975-1976) and first Director of the Centre. Gave the Seminar on International Legal Problems in the Political and Social Sciences Faculty at the Universidad Nacional Autonoma de México (1971-1976). Director for the Institute of European Integration Studies headquartered at El Colegio de México (1994-1996).

Has lectured for the past three decades at the Foreign Office institute devoted to the training of Mexican diplomats (Academia Diplomática Matias Romero) on international law and foreign policy. Gave a series of lectures on the responsibility of States for the Hague Academy of International Law, during its Regional Programme held in Mexico City (2002).

Member of the Executive Council of the American Society of International Law (1974-1975). Founding member and Member of the Board of Directors of Transparencia Mexicana, a non-governmental organization. President of the Mexican Branch of the International Law Association.

Member of the Editorial Board of *Foro Internacional*. Member of the Board of Directors of the journal *Este País*.

Recipient of numerous orders, decorations and medals awarded by foreign Governments. Received the "Principe de Asturias Prize" in the field of international co-operation (Spain, 1984) and the Unesco Simon Bolivar Prize (1985). Honorary Doctorate Degrees from the University of San Diego (1984) and the University of Leningrad, now St. Petersburg

(1987). Honorary Fellow of Queens' College, University of Cambridge (since 1990).

Principal publications: *Las Naciones Unidas. dilema a los 25 años* (co-ed.), 1970; *La inversión extranjera en México*, 1973; "Mexico and Law of the Sea", in *The Changing Law of the Sea: Western Hemisphere Perspectives*, Ralph Zacklin, ed., 1974; *Política Exterior de México. Discursos y Documentos*, 6 volumes covering the period 1983-1988, 1983-1988; "Los intereses de la politica exterior", in *La politica internacional de México en el decenio de los ochenta*, César Sepúlveda, comp., 1994; "No intervención y derecho de injerencia: el imperio o la decadencia de la soberanía", in *Las Naciones Unidas a los 50 años* (comp., Modesto Seara Vázquez), 1995; "International Law and National Sovereignty", *Houston Journal of International Law*, Vol. 19, Spring 1997, Number 3; "Objetivos e intereses de la politica exterior", in *México ante el fin de la guerra fria*", Ilan Bizberg, comp., 1998; "Las definiciones de la politica exterior", in *México en el mundo: los desafios para México en 2001*, Rafael Fernández de Castro, Coordinador, 2001; "Una asignatura pendiente: la participación de México en las operaciones de paz de la ONU", in *Cumbre del Milenio: ¿hacia donde van las Naciones Unidas?*, Miguel Covian, comp., 2001; and "El Eje del Mal y su Destino Manifiesto", in *Problemas juridicos y politicos del terrorismo*, J. J. Olloqui, coordinador, 2003.

Judge *ad hoc* Auguste Mampuya KANUNK'A-TSHIABO

(Judge *ad hoc* in the case concerning *Ahmadou Sadio Diallo (Republic of Guinea* v. *Democratic Republic of the Congo)*)

Born in Ndemba, province of Kasai-Occidental, Democratic Republic of the Congo, on 13 February 1943.

Licence in law, University of Nancy 2 (1968). *Diplôme d'études supérieures* (DES) in public law, University of Nancy 2 (1969). DES in political science, University of Nancy 2 (1971). European DES (DESE), Centre européen universitaire, University of Nancy 2 (1970). State doctorate in law, with specialization in public international law, University of Nancy 2 (1972).

Assistant in constitutional law, *chargé d'enseignement* (course in international institutions), University of Rheims (1969-1972). Professor in the law faculty of the University of Kinshasa (since 1972), currently graded *professeur ordinaire*; courses in international law. Visiting Professor at the University of Metz, international law and constitutional law (2001-2003). Visiting Professor (1994-2001) and Professor (since 2002) in the law faculty, University of Nancy, public international law, general theory of law.

Member and Deputy Director of the Centre d'étude et de recherche de droit international et européen (CERDIE), University of Nancy 2. Researcher and analyst in law and politics.

Author of a number of studies in international law, including works of theoretical and applied research: *Emergence des Etats nouveaux et droit international – quelques tendances théoriques*, 1984; *Désuétude du système de sécurité collective*, 1986; *Conflit armé au Congo-Zaïre, ses circonstances et sa gestion sous l'angle du droit des Nations Unies*, 2001.

Minister of Justice of Zaire (1977). *Chargé de mission*, Ministry for Territorial Administration, with responsibility for decentralization (1981-1983). Legal Adviser to the Board of Directors of Zaire Universities (1982-1984). Political Counsellor to the Presidency of the Republic, then Senior Presidency Official with the rank of Deputy-Director of the Personal Office of the President (1993-1997). Has carried out a number of official foreign missions (United States of America, United Nations, United Kingdom, France, Panama, Mozambique, Romania).

Expert to the Electoral Institute for Southern Africa (EISA).

Chevalier de l'Ordre national des Palmes académiques (France).

Judge *ad hoc* Joe VERHOEVEN

(Judge *ad hoc* in the case concerning *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo* v. *Uganda)*)

Born in Brussels, Belgium, on 12 March 1943.

Doctor of Law (1965) and Agrégé de l'enseignement supérieur (1975).

Former ordinary Professor at the Catholic University of Louvain. Professor at the University of Paris II-Panthéon Assas (since 2000). Professor at the St. Louis University Faculties (Brussels). Law Faculty Course Director for Public International Law and European Community Law (with Mr. Wathelet since 1997), and specialist teaching in these two disciplines.

Member of the Research Council of the Catholic University of Louvain; (President since 1998) of the Commission des sciences juridiques du Fonds national de la recherche scientifique.

Attendance at numerous conferences and teaching abroad (notably: Aix-Marseille, Bordeaux, Hitotsubashi University, Institut universitaire des hautes études internationales (Geneva), New York University, Ottawa, Paris I, Paris II, University of California (Los Angeles)); Visiting Scholar at Stanford Law School (1998).

Teaching at the Hague Academy of International Law (Private International Law Section) in 1985; invited to give the 2002 general course on public international law.

Member of various learned societies (Member-elect of the Council of the French Society for International Law); Member of the editorial board of various law periodicals (including the *Annuaire français de droit international*).

Member of the Permanent Court of Arbitration; expert adviser to the Centre for the Prevention of Conflict in the Organisation for Security and Co-operation in Europe (OSCE).

Participated — as counsel or, in one case, as arbitrator — in certain international arbitrations, *ad hoc* or ICC; State's counsel for Iran in several cases before the Iran-United States Claims Tribunal; various consultative positions.

Member (since 1991) of the Institute of International Law (elected Associate at Helsinki in 1985).

Winner of the Charles De Trooz prize (1965) (for an essay on Luise Rinser), the Henri Rolin prize (1976) (for a work on international recognition) and the Fondation E. de Laveleye prize 1993-1998 (Royal Academy of Belgium).

Author of the following monographs: *La reconnaissance internationale dans la pratique contemporaine. Les relations publiques internationales*, 1975. "Les nullités du droit des gens", *Droit international*, Institut des hautes études internationales de Paris, 1981; "Relations internationales de droit privé en l'absence de reconnaissance d'un Etat, d'un gouvernement ou d'une situation", *Recueil des cours*, Hague Academy of International Law, Vol. 192, 1985; *The Antarctic Environment and International Law* (published in collaboration with Ph. Sands), 1992; *Droit de la Communauté européenne*, 1996, 2nd ed., 2000; *Public International Law*, 2000; and almost 150 legal articles, commentaries or essays in various Belgian or foreign publications or collective works including: "Contrats entre Etats et ressortissants d'autres Etats", *Le contrat économique international, Stabilité et évolution, VII^es Journées d'études juridiques Jean Dabin*, 1975; "L'Etat et l'ordre juridique international. Remarques", *RGDIP*, 1978; "Droit international des contrats et droit des gens", *RBDI*, 1978-1979; "La notion d'applicabilité directe du droit international", *RBDI*, 1980; "Sanctions internationales et communautés européennes. A propos de l'affaire des îles Falkland (Malvinas)", *Cah. dr. europ.*, 1984; "Sur les conflits de lois en droit des gens", *Journal du droit international*, 1984; "Le droit, le juge et la violence. Les arrêts Nicaragua *v.* United States", *Rev. gén. dr. int. public*, 1987; "Sur la Palestine en droit international privé, note sous AG Neumünster", *Revue critique de droit international privé*, 1988; "Etats alliés ou Nations Unies. L'ONU face au conflit entre l'Irak et le Koweit", *AFDI*, 1990; "Sur la récupération à l'étranger des sommes détounées par d'anciens chefs d'Etat", *Mélanges Lalive, Helbing et Lichtenhahn, Bâle-Francfort*, 1993; "Les citoyens de l'Europe", *Annales dr. Louvain*, 1993; "Sovereign States: A Collectivity or a Community?", *Hitotsubashi Journal of Law and Politics*, 1994; "La reconnaissance internationale: déclin ou renouveau?", *AFDI*, 1993; "Human Rights, Intervention and Universality", *Hungdah Chiu et al., Proceedings of the International Law Association (ILA), First Asian-Pacific Regional Conference*, 1995; "Les principales étapes de la protection internationale des minorités", *Rev. trim. Dr. H.*, 1997; "L'application ou la prise en considération des directives communautaires en droit belge, note sous Cass., 2 Dec. 1996", *Rev. crit. j. b.*, 1998; "La Communauté européenne et la sanction internationale de la démocratie et des droits de l'homme", *Liber Amicorum*

Mohammed Bedjaoui, 1999; "Jus Cogens and Reservation or 'Counter-Reservations' to the Jurisdiction of the International Court of Justice", in K. Wellens (ed.), *International Law: Theory and Practice, Essays in Honour of E. Suy*, 1998; "Mr. Pinochet, la coutume internationale et la compétence universelle, note sous Civ. Bruxelles, 6 Nov. 1998", *JT*, 1999.

Judge *ad hoc* Mohamed BENNOUNA

(Judge *ad hoc* in the case concerning the *Frontier Dispute (Benin/Niger)*)

Agrégé in public law and political science, Paris (1972). Doctorate in International Law, Diploma from the Hague Academy of International Law.

Professor, then Dean, Faculty of Law, Rabat (Morocco) (1972-1984). Visiting Professor at various universities: Tunis, Algiers, Nice, New York, Salonika, Paris.

Legal Adviser to the Moroccan Delegation at numerous sessions of the United Nations General Assembly (since 1974). Member of the Moroccan Delegation to the United Nations Conference on the Law of the Sea (1974-1982). Ambassador, Deputy Permanent Representative of Morocco to the United Nations (1985-1989).

Director General of the Institut du monde arabe (IMA, Paris) (1991-1998).

Member of the International Bioethics Committee (Unesco) (1992-1998) and of the International Panel on Democracy and Development (Unesco) (from 1997). Chairman of a panel of the United Nations Compensation Commission (UNCC) in Geneva (1992-1995). Member of the United Nations International Law Commission (Geneva) (1986-1998).

Judge at the International Criminal Tribunal for the former Yugoslavia in The Hague (1998-2001).

Ambassador, Permanent Representative of Morocco to the United Nations (since March 2001).

Author of numerous works and articles, in the fields of peacekeeping and international security, the law of the sea, the law of development and international criminal law.

Member of numerous learned bodies, in particular the Institut de droit international.

Prix National de la Culture of Morocco. Award for Culture of the Yemen. Chevalier de l'Ordre national de la Légion d'honneur of France.

Judge *ad hoc* James L. KATEKA

(Judge *ad hoc* in the case concerning *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo* v. *Uganda)*)

Born on 25 April 1945 in Karagwe District, Tanzania.

Bachelor of Laws Degree with Honours, University College Dar es Salaam of the University of East Africa (1970); Master of Laws (specializing in international law), King's College, University of London (1974).

Career diplomat who joined Tanzania's Ministry of Foreign Affairs in 1970: Third Secretary in the Protocol and Treaties Division (1970-1973); Second Secretary and Head of the Legal Section (1973-1975); First Secretary (1976-1978) and Counsellor (1978-1980) of the Tanzanian Mission to the United Nations in New York; Counsellor and later Minister Plenipotentiary serving as Head of the Treaties Section in the Ministry of Foreign Affairs (1980-1983); Director of the Ministry's Department for Legal Affairs and International Organizations (1983-1989). Ambassador of Tanzania to the Federal Republic of Germany, concurrently accredited to Austria, the Holy See, Poland, Romania and Switzerland (1989-1994). Ambassador of Tanzania to the Russian Federation (1994-1998). Ambassador of Tanzania to Sweden, concurrently accredited to the other Nordic countries of Denmark, Finland, Norway and Iceland and the Baltic Republics of Estonia, Latvia and Lithuania (since 1998).

Attended twelve sessions of the United Nations General Assembly between 1976 and 1988 and in 1996. Served in the Sixth Committee (Legal) and in the First Committee. Attended as a specialist in the law of the sea all sessions of the Third United Nations Conference on the Law of the Sea (1973-1982). Attended all sessions of the United Nations Preparatory Commission for the International Seabed Authority and the International Tribunal for the Law of the Sea (1983 and 1993). Participated in the first session of the Assembly of the International Seabed Authority in Kingston, Jamaica (1994 and 1995). Attended all sessions of the United Nations Committee for the Peaceful Uses of the Seabed beyond the Limits of National Jurisdiction (this Committee prepared for the Third United Nations Conference on the Law of the Sea, 1971 and 1973). Tanzania's delegate to the Stockholm Conference on the Human Environment, which was the first such global conference (1972). Participated in the London Conference which drafted the Anti-dumping Convention (1972). Took part in the IMCO (now IMO) Conference on the Marine Pollution Convention (1973). Head of Tanzania's delegation to the Diplomatic Conference on Territorial Asylum in Geneva (1977) and to the conference which adopted the Vienna Convention on Succession of States in respect of Treaties (1978). Took part in the Commonwealth Heads of Government meeting in New Delhi (1983). Attended the United Nations conference on Women, in Nairobi (1985), and the 25th Session of the Asian African Legal Consultative Committee (AALCC) which met in Arusha, Tanzania (1985). Tanzania's representative in the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization; the Special Committee on Enhancing the Effectiveness of the Principle of Non-Use of Force in International Relations; the *ad hoc* committee for the drafting of a convention against the taking of hostages and the conference which adopted the convention; and the *ad hoc* committee on the Indian Ocean as a zone of peace.

Member (since 1997) of the United Nations International Law Commission; Vice-Chairman (2002).

Partner in the law firm of South Law Chambers (Dar es Salaam). Has published articles and lectured on international law, including on the law of the sea and on human rights.

Awarded the Papal Honour of the Grand Cross with the Star of the Order of Pius the Ninth in 1993 by Pope John Paul II. Member (since 1997) and Vice-President (2002) of the United Nations International Law Commission.

Judge *ad hoc* Milenko KREĆA

(Judge *ad hoc* in the cases concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide* (*Bosnia and Herzegovina* v. *Serbia and Montenegro*), *Application of the Convention on the Prevention and Punishment of the Crime of Genocide* (*Croatia* v. *Serbia and Montenegro*) and the cases concerning *Legality of Use of Force* (*Serbia and Montenegro* v. *Belgium*) (*Serbia and Montenegro* v. *Canada*) (*Serbia and Montenegro* v. *France*) (*Serbia and Montenegro* v. *Germany*) (*Serbia and Montenegro* v. *Italy*) (*Serbia and Montenegro* v. *Netherlands*) (*Serbia and Montenegro* v. *Portugal*) (*Serbia and Montenegro* v. *United Kingdom*))

Born in Sisak, Croatia, on 19 August 1947.

Received M.A. and Ph.D. (LL.D.) degrees *cum laude* from the School of Law, Belgrade University.

Upon graduation, practised law as an attorney (1973-1974).

Assistant Professor (1975), Docent (1978) and Associate Professor (1985) at the Belgrade School of Law. Full-time Professor of International Public Law (1990) and Associate Dean (1989-1991) at the Belgrade School of Law. Head of Chair of International Law and International Relations at the Faculty of Law in Belgrade (since 1997); Director of the Institute for International Politics and Economics (1997-2000); President of the Council of the Institute for Comparative Law (1997-2000); Member of the Federal Commission for Harmonization of FRY Law with the Laws of EU, EC and WTO (since 1998); Member of the Board of the Faculty of Law in Belgrade (1998-2000).

Arbitrator of the Permanent Arbitration at the Commercial Chamber of the Republic of Serbia (since 2000); President of the Scientific Council for Legal and Political Sciences at Belgrade University (1999-2004). President of the International Criminal Law Association (since 2002). Director of the Institute for Legal Studies, Faculty of Law, Belgrade.

Was on several occasions legal adviser to the Ministry of Foreign Affairs and Government of the Federal Republic of Yugoslavia and to other organs of the Republic of Serbia and the Federal Republic of Yugoslavia.

Founder of the *Review of EU Legislation* (Belgrade, Institute for International Politics and Economics).

Principal publications: *Practical Course in International Law* (co-author), 1980; *International Public Law* (co-author), 1983, 1986, 1989, 1990, 1991, 1993, 1996, 1997, 1999, 2001, 2003, 2004; *Sources of International Public Law*, 1979, 1985, 1999, 2004; *Treaty-making Power of the State in International Law, with a Special Review of Federal States*, 1988; *Absolutely Binding Norms (Ius Cogens) in International Public Law*, 1989; *Material for International Public Law*, I-III (co-author), 1988-1989; *Law of the Sea – Scientific Research of the Sea and Transfer of Marine Technology*, 1990; *Treaty-making Power of the State in International Law*, 1991. Author of over 70 articles and papers in Serbian and foreign languages, including: "Some General Reflections on Main Features of *Ius Cogens* as a Notion of International Public Law", in *New Directions in International Law, Essays in Honour of W. Abendroth*, 1982; "Quelques observations sur le problème de la hiérarchie des règles de droit dans le droit international public", in *Yugoslav Review of International Law*, No. 1, 1980; "Constitutional Provisions Regulating Activity of Federal Units in International Relations", in *Yugoslav Review of International Law*, No. 1, 1992; "A Few Remarks on Theoretical Basis of the New Law of the Sea", *Liber Amicorum Judge Shigeru Oda*.

Judge *ad hoc* Jean-Yves De Cara

(Juge *ad hoc* in the case concerning *Certain Criminal Proceedings in France (Republic of the Congo v. France)*)

Born in Oujda (Morocco) on 26 June 1950.

Licence in Law, Faculty of Law, Lyon (1973). *Diplôme d'études supérieures* (DES) in Public Law and Political Science, and DES in History of Law and Roman Law, Lyon III. Doctorate in Public Law, Lyon III (1981). *Agrégation* of the Faculties of Law (1994).

Law Clerk to Sir Gordon Slynn, now the Rt. Hon. The Lord Slynn of Hadley, at the Court of Justice of the European Communities (1989-1992).

Professor, University of Toulon and of the Var (1994-1996) and Institut d'études politiques of Aix-en-Provence. Director, Centre for International European and Comparative Law. Professor, Faculty of Law, University Jean Moulin Lyon III (1996-2003). Professor, Faculty of Law, University René Descartes Paris V (since 2003).

Visiting Professor, University of Durham (1993-1997), Athens Georgia (United States, 1996-2003), Konstanz (Germany, since 1998), St. Joseph University, Beirut (since 2000). Visiting Fellow, University of Cambridge (1996-1997).

Lawyer of the Lyon Bar (1989-1998). Littleton Chambers, Temple, London (since 2000).

Author of many publications on constitutional law, international law and community law.

Judge *ad hoc* Patrick Fernand Odiel Marie DUINSLAEGER

(Judge *ad hoc* in the case concerning *Legality of Use of Force (Serbia and Montenegro* v. *Belgium)*)

Born at Ostend, Belgium, on 30 May 1953.

Licencié en droit, University of Brussels (First Class Honours) (1978).

Trainee advocate at the Brussels Bar and judicial trainee in the Public Prosecutor's Office at the Brussels Court of First Instance (1978-1983); Deputy Prosecutor (1983), and Senior Deputy Prosecutor, Crown Prosecutor's Office, Brussels (1988); Deputy Prosecutor-General, Court of Appeal, Brussels (1991).

Joint Director, Interforces Anti-terrorist Group (1984-1997); Joint Director, Special Police Unit for the Suppression of Terrorism and Organized Crime (1987-1997).

Member of various supervisory committees set up by the Minister of the Interior to oversee university research (1988-1997). Lecturer *[chargé de cours]* at the Ecole de Criminologie et de Criminalistique (Institut National de Criminologie et de Criminalistique) (1989-1997).

Chair of the Belgian Delegation to the "Benelux" Working Group for International Co-operation (1993).

Senior State Judicial Officer responsible for national and international co-ordination of the fight against organized crime and for international police and judicial co-operation (1991-1997).

Appointed Judicial Liaison Officer for Belgium to the International Criminal Tribunal for the former Yugoslavia and to the International Criminal Tribunal for Rwanda (1995-1998).

Head of Cabinet to the Minister of Justice (1998-1999).

Advocate-General at the Court of Cassation (1999).

Commander of the Order of Leopold.

Knight of the Order of the Crown.

Mr. Jean-Pierre MAVUNGU MVUMBI-DI-NGOMA

(Judge *ad hoc* in the case concerning *Armed Activities on the Territory of the Congo (New Application: 2002) (Democratic Republic of the Congo* v. *Rwanda)*)

Born on 22 December 1956 at Nsumbi (Province of Bas-Congo), Democratic Republic of the Congo.

Graduate of the Ecole nationale d'administration publique of Rabat. Licence in law, Mohamed V University, Morocco (1980). Graduate of the Institut universitaire de hautes études internationales of Geneva (1987). Doctor of Law, University of Fribourg, Switzerland (1992). Agrégé in public law (1992).

Graduate assistant and lecturer in public international law and public law at the University of Fribourg (1990-1995). Associate Professor and Head of the Department of public international law and international relations of the University of Kinshasa (since 1995). Professor and Head of Department of public law at the Faculty of Law of the Protestant University in the Congo (since 1997).

Directeur de cabinet to the Minister for Human Rights (1998-1999, 2001). Member of the Congolese Delegation to the 55th Session and 57th Session of the United Nations Human Rights Commission (Geneva). Member of the Congolese Delegation to the 54th Session of the United Nations General Assembly (New York). Resource officer at the Regional Seminar on the Promotion of Economic, Social and Cultural Rights in Africa (Abidjan, Côte d'Ivoire, 1998).

Co-ordinator of the 10th Diplomatic Conference organized by the Ministry of Foreign Affairs and International Co-operation (Kinshasa, December 2002).

Abassador Extraordinary and Plenipotentiary of the Democratic Republic of the Congo to the European Union (Brussels, since July 2003).

Member of the Association of Professors of the University of Kinshasa, of the Alumni Association of the University of Fribourg and the Alumni Association of the Université de hautes études internationales of Geneva. Former member of the African Society for International and Comparative Law.

CHAPTER III

JURISDICTION OF THE COURT

I. JURISDICTION IN CONTENTIOUS CASES

It is the function of the International Court of Justice to decide in accordance with international law such disputes as are submitted to it (Statute, Art. 38, para. 1). Its jurisdiction in this respect is defined in Article 93 of the Charter of the United Nations and in Articles 34-37 of the Statute of the Court.

1. States Entitled to Appear before the Court

Article 34, paragraph 1, of the Statute provides that: "Only States may be parties in cases before the Court." International organizations, other collectivities and private persons are therefore not entitled to institute proceedings before the Court.

A State entitled to appear before the Court may fall into one of three categories:

(a) *States Members of the United Nations*

Article 35, paragraph 1, of the Statute provides that the Court shall be open to the States parties to the Statute, and Article 93, paragraph 1, of the Charter of the United Nations provides that all Members of the United Nations are *ipso facto* parties to the Statute.

On 31 July 2004 the following 191 States were Members of the United Nations:

State	*Date of Admission*
Afghanistan	19 November 1946
Albania	14 December 1955
Algeria	8 October 1962
Andorra	28 July 1993
Angola	1 December 1976
Antigua and Barbuda	11 November 1981
Argentina	Original Member
Armenia	2 March 1992
Australia	Original Member
Austria	14 December 1955
Azerbaijan	2 March 1992
Bahamas	18 September 1973
Bahrain	21 September 1971
Bangladesh	17 September 1974
Barbados	9 December 1966

State	*Date of Admission*
Belarus	Original Member
Belgium	" "
Belize	25 September 1981
Benin	20 September 1960
Bhutan	21 September 1971
Bolivia	Original Member
Bosnia and Herzegovina	22 May 1992
Botswana	17 October 1966
Brazil	Original Member
Brunei Darussalam	21 September 1984
Bulgaria	14 December 1955
Burkina Faso	20 September 1960
Burundi	18 September 1962
Cambodia	14 December 1955
Cameroon	20 September 1960
Canada	Original Member
Cape Verde	16 September 1975
Central African Republic	20 September 1960
Chad	" "
Chile	Original Member
China	" "
Colombia	" "
Comoros	12 November 1975
Congo	20 September 1960
Costa Rica	Original Member
Côte d'Ivoire	20 September 1960
Croatia	22 May 1992
Cuba	Original Member
Cyprus	20 September 1960
Czech Republic	19 January 1993
Democratic People's Republic of Korea	17 September 1991
Democratic Republic of the Congo	20 September 1960
Denmark	Original Member
Djibouti	20 September 1977
Dominica	18 December 1978
Dominican Republic	Original Member
Ecuador	" "
Egypt	" "
El Salvador	" "
Equatorial Guinea	12 November 1968
Eritrea	28 May 1993
Estonia	17 September 1991
Ethiopia	Original Member
Fiji	13 October 1970
Finland	14 December 1955
France	Original Member

State	*Date of Admission*
Gabon	20 September 1960
Gambia	21 September 1965
Georgia	31 July 1992
Germany	18 September 1973
Ghana	8 March 1957
Greece	Original Member
Grenada	17 September 1974
Guatemala	Original Member
Guinea	12 December 1958
Guinea-Bissau	17 September 1974
Guyana	20 September 1966
Haiti	Original Member
Honduras	.. ..
Hungary	14 December 1955
Iceland	19 November 1946
India	Original Member
Indonesia	28 September 1950
Iran (Islamic Republic of)	Original Member
Iraq	.. ..
Ireland	14 December 1955
Israel	11 May 1949
Italy	14 December 1955
Jamaica	18 September 1962
Japan	18 December 1956
Jordan	14 December 1955
Kazakhstan	2 March 1992
Kenya	16 December 1963
Kiribati	14 September 1999
Kuwait	14 May 1963
Kyrgyzstan	2 March 1992
Lao People's Democratic Republic	14 December 1955
Latvia	17 September 1991
Lebanon	Original Member
Lesotho	17 October 1966
Liberia	Original Member
Libyan Arab Jamahiriya	14 December 1955
Liechtenstein	18 September 1990
Lithuania	17 September 1991
Luxembourg	Original Member
Madagascar	20 September 1960
Malawi	1 December 1964
Malaysia	17 September 1957
Maldives	21 September 1965
Mali	28 September 1960
Malta	1 December 1964
Marshall Islands	17 September 1991

State	*Date of Admission*
Mauritania	27 October 1961
Mauritius	24 April 1968
Mexico	Original Member
Micronesia (Federated States of)	17 September 1991
Monaco	28 May 1993
Mongolia	27 October 1961
Morocco	12 November 1956
Mozambique	16 September 1975
Myanmar	19 April 1948
Namibia	23 April 1990
Nauru	14 September 1999
Nepal	14 December 1955
Netherlands	Original Member
New Zealand	″ ″
Nicaragua	″ ″
Niger	20 September 1960
Nigeria	7 October 1960
Norway	Original Member
Oman	7 October 1971
Pakistan	30 September 1947
Palau	15 December 1994
Panama	Original Member
Papua New Guinea	10 October 1975
Paraguay	Original Member
Peru	″ ″
Philippines	″ ″
Poland	″ ″
Portugal	14 December 1955
Qatar	21 September 1971
Republic of Korea	17 September 1991
Republic of Moldova	2 March 1992
Romania	14 December 1955
Russian Federation	Original Member
Rwanda	18 September 1962
Saint Kitts and Nevis	23 September 1983
Saint Lucia	18 September 1979
Saint Vincent and the Grenadines	16 September 1980
Samoa	15 December 1976
San Marino	2 March 1992
Sao Tome and Principe	16 September 1975
Saudi Arabia	Original Member
Senegal	28 September 1960
Serbia and Montenegro	1 November 2000[1]

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[1] The Socialist Federal Republic of Yugoslavia was an original Member of the United Nations, the Charter having been signed on its behalf on 26 June 1945 and ratified

State	*Date of Admission*
Seychelles	21 September 1976
Sierra Leone	27 September 1961
Singapore	21 September 1965
Slovakia	19 January 1993
Slovenia	22 May 1992
Solomon Islands	19 September 1978
Somalia	20 September 1960
South Africa	Original Member
Spain	14 December 1955
Sri Lanka	" "
Sudan	12 November 1956
Suriname	4 December 1975
Swaziland	24 September 1968
Sweden	19 November 1946
Switzerland	10 September 2002
Syrian Arab Republic	Original Member
Tajikistan	2 March 1992
Thailand	16 December 1946
The former Yugoslav Republic of Macedonia	8 April 1993
Timor-Leste	27 September 2002
Togo	20 September 1960
Tonga	14 September 1999
Trinidad and Tobago	18 September 1962
Tunisia	12 November 1956
Turkey	Original Member
Turkmenistan	2 March 1992
Tuvalu	5 September 2000
Uganda	25 October 1962
Ukraine	Original Member
United Arab Emirates	9 December 1971
United Kingdom of Great Britain and Northern Ireland	Original Member
United Republic of Tanzania	14 December 1961
United States of America	Original Member
Uruguay	" "

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19 October 1945, until the dissolution of that State in 1992. The Federal Republic of Yugoslavia deposited with the Secretary-General of the United Nations, on 26 April 1999, a declaration of acceptance of the compulsory jurisdiction of the International Court of Justice. By General Assembly resolution A/RES/55/12 of 1 November 2000 the Federal Republic of Yugoslavia was admitted as a Member of the United Nations. The issue whether or not the Federal Republic of Yugoslavia was a Member of the United Nations between 1992 and 1 November 2000 has been raised in several pending cases before the Court. Following the adoption and the promulgation of the Constitutional Charter of Serbia and Montenegro by the Assembly of the Federal Republic of Yugoslavia on 4 February 2003, the name of the State of the Federal Republic of Yugoslavia was changed to Serbia and Montenegro.

State	*Date of Admission*
Uzbekistan	2 March 1992
Vanuatu	15 September 1981
Venezuela	Original Member
Viet Nam	20 September 1977
Yemen	30 September 1947
Zambia	1 December 1964
Zimbabwe	25 August 1980

(b) *States, not members of the United Nations, parties to the Statute*[1]

Article 93, paragraph 2, of the Charter of the United Nations provides that States which are not members of the United Nations may become parties to the Statute of the Court on conditions to be determined in each case by the General Assembly upon the recommendation of the Security Council[2].

The conditions laid down have hitherto been the same in each case. They were laid down for the first time as a result of a request by the Swiss Federal Council; on that occasion the General Assembly, on 11 December 1946, adopted resolution 91 (I) which prescribed the following conditions:

> "*(a)* Acceptance of the provisions of the Statute of the International Court of Justice;
>
> *(b)* Acceptance of all the obligations of a Member of the United Nations under Article 94 of the Charter;
>
> *(c)* An undertaking to contribute to the expenses of the Court such equitable amount as the General Assembly shall assess from time to time after consultation with the Swiss Government."[3]

The date on which the State concerned becomes a party to the Statute is that of the deposit with the Secretary-General of the United Nations of the instrument of acceptance of the conditions.

Pursuant to Article 4, paragraph 3, of the Statute, the conditions on which such a State may participate in the election of Members of the Court were laid down in resolution 264 (III) adopted by the General Assembly, upon the recommendation of the Security Council, on 8 October 1948. The operative part of this resolution lays down that:

> "1. Such a State shall be on an equal footing with the Members of the United Nations in respect to those provisions of the Statute which regulate the nominations of candidates for election by the General Assembly.

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[1] The full text of the resolutions referred to in this section is given on pages 175-183 of *I.C.J. Acts and Documents No. 5.*

[2] Before becoming Members of the United Nations, Japan, Liechtenstein, San Marino, Nauru and Switzerland were parties to the Statute of the Court, as from 2 April 1954, 29 March 1950, 18 February 1954, 29 January 1988 and 28 July 1948, respectively.

[3] See below, Chap. VIII, p. 369.

> 2. Such a State shall participate, in the General Assembly, in electing the members of the Court in the same manner as the Members of the United Nations.
>
> 3. Such a State, when in arrears in the payment of its contribution to the expenses of the Court, shall not participate in electing the members of the Court in the General Assembly if the amount of its arrears equals or exceeds the amount of the contribution due from it for the preceding two full years. The General Assembly may, nevertheless, permit such a State to participate in the elections if it is satisfied that the failure to pay is due to conditions beyond the control of that State (see Charter, Article 19)."

The participation of such States in the procedure for amending the Statute of the Court (Charter, Art. 108; Statute, Art. 69) is governed by the following provisions of resolution 2520 (XXIV) adopted by the General Assembly, upon the recommendation of the Security Council, on 4 December 1969:

> "*(a)* A State which is a party to the Statute of the International Court of Justice, but is not a Member of the United Nations, may participate in the General Assembly in regard to amendments to the Statute in the same manner as the Members of the United Nations;
>
> *(b)* Amendments to the Statute of the International Court of Justice shall come into force for all States which are parties to the Statute when they have been adopted by a vote of two-thirds of the States which are parties to the Statute and ratified in accordance with their respective constitutional processes by two-thirds of the States which are parties to the Statute and in accordance with the provisions of Article 69 of the Statute and Article 108 of the Charter of the United Nations."

(c) *States, not parties to the Statute, to which the Court may be open*

The Court, which is open to States parties to the Statute, is also open to other States, in accordance with Article 35, paragraph 2, of the Statute[1]. This Article provides that the conditions upon which the Court shall be open to such States shall, subject to the special provisions contained in treaties in force, be laid down by the Security Council, but in no case shall such conditions place the parties in a position of inequality before the Court.

On 15 October 1946, the Security Council adopted resolution 9 (1946) which reads as follows:

> "The Security Council
>
> In virtue of the powers conferred upon it by Article 35, paragraph 2, of the Statute of the International Court of Justice and subject to the provisions of that Article,

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[1] See also Rules, Art. 26, para. 1 (*c*), and Art. 41, and below, Chap. VIII, p. 369.

> Resolves that:
>
> 1. The International Court of Justice shall be open to a State which is not a party to the Statute of the International Court of Justice, upon the following condition, namely, that such State shall previously have deposited with the Registrar of the Court a declaration by which it accepts the jurisdiction of the Court, in accordance with the Charter of the United Nations and with the terms and subject to the conditions of the Statute and Rules of the Court, and undertakes to comply in good faith with the decision or decisions of the Court and to accept all the obligations of a Member of the United Nations under Article 94 of the Charter;
>
> 2. Such declaration may be either particular or general. A particular declaration is one accepting the jurisdiction of the Court in respect only of a particular dispute or disputes which have already arisen. A general declaration is one accepting the jurisdiction generally in respect of all disputes or of a particular class or classes of disputes which have already arisen or which may arise in the future. A State, in making such a general declaration, may, in accordance with Article 36, paragraph 2, of the Statute, recognize as compulsory, *ipso facto* and without special agreement, the jurisdiction of the Court, provided, however, that such acceptance may not, without explicit agreement, be relied upon vis-à-vis States parties to the Statute which have made the declaration in conformity with Article 36, paragraph 2, of the Statute of the International Court of Justice;
>
> 3. The original declarations made under the terms of this resolution shall be kept in the custody of the Registrar of the Court, in accordance with the practice of the Court. Certified true copies thereof shall be transmitted, in accordance with the practice of the Court, to all States parties to the Statute of the International Court of Justice, and to such other States as shall have deposited a declaration under the terms of this resolution, and to the Secretary-General of the United Nations;
>
> 4. The Security Council reserves the right to rescind or amend this resolution by a resolution which shall be communicated to the Court, and on the receipt of such communication and to the extent determined by the new resolution, existing declarations shall cease to be effective except in regard to disputes which are already before the Court;
>
> 5. All questions as to the validity or the effect of a declaration made under the terms of this resolution shall be decided by the Court."

In the past, particular declarations have been filed by Albania (1947) and by Italy (1953), and general declarations by Cambodia (1952), Ceylon (1952), the Federal Republic of Germany (1955, 1956, 1961, 1965 and 1971), Finland (1953 and 1954), Italy (1955), Japan (1951), Laos (1952), and the Republic of Viet Nam (1952).

2. *Basis of the Court's Jurisdiction*

The jurisdiction of the Court in contentious proceedings is based on the consent of the States to which it is open[1]. The form in which this consent is expressed determines the manner in which a case may be brought before the Court.

(a) *Special agreement*

Article 36, paragraph 1, of the Statute provides that the jurisdiction of the Court comprises all cases which the parties refer to it. Such cases normally come before the Court by notification to the Registry of an agreement known as a *special agreement* and concluded by the parties specially for this purpose[2]. The subject of the dispute and the parties must be indicated (Statute, Art. 40, para. 1; Rules, Art. 39).

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[1] In the following eight cases, the Court found that it could take no further steps upon an Application in which it was admitted that the opposing party did not accept its jurisdiction: *Treatment in Hungary of Aircraft and Crew of United States of America (United States of America v. Hungary) (United States of America v. USSR)*; *Aerial Incident of 10 March 1953 (United States of America v. Czechoslovakia)*; *Antarctica (United Kingdom v. Argentina) (United Kingdom v. Chile)*; *Aerial Incident of 7 October 1952 (United States of America v. USSR)*; *Aerial Incident of 4 September 1954 (United States of America v. USSR)*; *Aerial Incident of 7 November 1954 (United States of America v. USSR)*. On 1 July 1978 the present Rules of Court came into force, Article 38, paragraph 5, of which provides:

> "When the applicant State proposes to found the jurisdiction of the Court upon a consent thereto yet to be given or manifested by the State against which such application is made, the application shall be transmitted to that State. It shall not however be entered in the General List, nor any action be taken in the proceedings, unless and until the State against which such application is made consents to the Court's jurisdiction for the purposes of the case."

Article 38, paragraph 5, has been applied with regard to an Application filed by Hungary on 23 October 1992, instituting proceedings against the Czech and Slovak Republic, an Application filed by the Federal Republic of Yugoslavia on 16 March 1994, instituting proceedings against the Member States of NATO, an Application filed by Eritrea on 16 February 1999, instituting proceedings against Ethiopia, and an Application filed by the Republic of the Congo on 9 December 2002, instituting proceedings against France. In the cases concerning *Legality of Use of Force (Serbia and Montenegro v. France) (Serbia and Montenegro v. Germany) (Serbia and Montenegro v. Italy) (Serbia and Montenegro v. United States of America)*, Serbia and Montenegro (formerly called Yugoslavia) referred to Article IX of the Genocide Convention of 1948 and to Article 38, paragraph 5, of the Rules of Court as bases for the jurisdiction of the Court. The cases were entered in the General List on the basis of the reference to Article IX of the Genocide Convention.

[2] The following 16 cases were submitted to the Court by means of special agreements: *Asylum (Colombia/Peru)*; *Minquiers and Ecrehos (France/United Kingdom)*; *Sovereignty over Certain Frontier Land (Belgium/Netherlands)*; *North Sea Continental Shelf (Federal Republic of Germany/Denmark; Federal Republic of Germany/Netherlands)*; *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)*; *Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America)* (case referred to a Chamber); *Continental Shelf (Libyan Arab Jamahiriya/Malta)*; *Frontier Dispute (Burkina Faso/Republic of Mali)* (case referred to a Chamber); *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras)* (case referred to a Chamber); *Territorial Dispute (Libyan Arab Jamahiriya/Chad)*; *Gabčíkovo-Nagymaros Project (Hungary/Slovakia)*; *Kasikili/Sedudu Island*

(b) *Cases provided for in treaties and conventions*

Article 36, paragraph 1, of the Statute provides also that the jurisdiction of the Court comprises all matters specially provided for in treaties and conventions in force. In such cases a matter is normally brought before the Court by means of a written *application instituting proceedings*[1]; this is a unilateral document which must indicate the subject of the dispute and the parties (Statute, Art. 40, para. 1) and, as far as possible, specify the provision on which the applicant founds the jurisdiction of the Court (Rules, Art. 38).

A list of treaties and conventions governing the jurisdiction of the International Court of Justice in contentious cases is given in Chapter IV (Sec. III) of the present *Yearbook* (pp. 161-182). Furthermore, some of the agreements and conventions mentioned in Section I of Chapter IV (pp. 109-115) relate, in particular, to the jurisdiction of the Court in contentious proceedings.

To these instruments must be added other treaties and conventions concluded earlier and conferring jurisdiction upon the *Permanent Court of International Justice*, for Article 37 of the Statute of the International Court of Justice stipulates that whenever a treaty or convention in force provides for reference of a matter to a tribunal to have been instituted by the League of Nations, or to the *Permanent Court of International Justice*, the matter shall, as between the parties to the Statute, be referred to the International Court of Justice. The *Permanent Court* reproduced, in 1932, in its *Collection of Texts governing the Jurisdiction of the Court* (*P.C.I.J., Series D, No. 6*, fourth edition) and subsequently in Chapter X of its *Annual Reports* (*P.C.I.J., Series E, Nos. 8-16*) the relevant provisions of the instruments governing its jurisdiction. By virtue of the Article referred to above, some of these provisions now govern the jurisdiction of the International Court of Justice.

(c) *Compulsory jurisdiction in legal disputes*

The Statute provides that a State may recognize as compulsory, in relation to any other State accepting the same obligation, the jurisdiction

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(*Botswana/Namibia*); *Sovereignty over Pulau Ligitan and Pulau Sipadan* (*Indonesia/Malaysia*); *Frontier Dispute* (*Benin/Niger*); *Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge* (*Malaysia/Singapore*). In the *Corfu Channel* (*United Kingdom* v. *Albania*) case the Parties made a special agreement after delivery of the Judgment on the Preliminary Objection. The case concerning the *Arbitral Award Made by the King of Spain on 23 December 1906* (*Honduras* v. *Nicaragua*) was submitted by means of an application, but the Parties had previously concluded an agreement on the procedure to be followed in submitting the dispute to the Court.

[1] With the exception of the 16 cases listed on page 103, footnote 2, which were brought by the notification of a special agreement, all contentious cases have been brought before the Court by means of an application instituting proceedings, irrespective of whether the Court's jurisdiction was founded on a provision in a treaty or convention, declarations recognizing the Court's jurisdiction as obligatory made by each of the parties to the dispute, or any other alleged form of consent.

of the Court in legal disputes. These cases are brought before the Court by means of written applications. The conditions on which such compulsory jurisdiction may be recognized are stated in paragraphs 2-5 of Article 36 of the Statute, which read as follows:

> "2. The States parties to the present Statute may at any time declare that they recognize as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the Court in all legal disputes concerning:
>
> (*a*) the interpretation of a treaty;
>
> (*b*) any question of international law;
>
> (*c*) the existence of any fact which, if established, would constitute a breach of an international obligation;
>
> (*d*) the nature or extent of the reparation to be made for the breach of an international obligation.
>
> 3. The declarations referred to above may be made unconditionally or on condition of reciprocity on the part of several or certain States, or for a certain time.
>
> 4. Such declarations shall be deposited with the Secretary-General of the United Nations, who shall transmit copies thereof to the parties to the Statute and to the Registrar of the Court.
>
> 5. Declarations made under Article 36 of the Statute of the Permanent Court of International Justice and which are still in force shall be deemed, as between the parties to the present Statute, to be acceptances of the compulsory jurisdiction of the International Court of Justice for the period which they still have to run and in accordance with their terms."

Texts of declarations accepting the compulsory jurisdiction of the Court are given in Section II of Chapter IV below (pp. 115-161).

(d) *The Court itself decides any question as to its jurisdiction*

Article 36, paragraph 6, of the Statute provides that in the event of a dispute as to whether the Court has jurisdiction, the matter shall be settled by the decision of the Court. Article 79 of the Rules lays down the conditions which govern the filing of preliminary objections[1].

(e) *Interpretation of a judgment*

Article 60 of the Statute provides that in the event of dispute as to the meaning or scope of a judgment, the Court shall construe it upon the request of any party. The request for interpretation may be made either by means of a special agreement between the parties or of an application by one or more of the parties (Rules, Art. 98)[1].

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[1] See below, Chap. V, Sec. III, part 3, p. 201.

(f) *Revision of a judgment*

An application for revision of a judgment may be made only when it is based upon the discovery of some fact of such a nature as to be a decisive factor, which fact was, when the judgment was given, unknown to the Court and also to the party claiming revision, always provided that such party's ignorance was not due to negligence (Statute, Art. 61, para. 1). A request for revision is made by means of an application (Rules, Art. 99)[2].

II. ADVISORY JURISDICTION

The advisory jurisdiction of the Court is governed by Article 65 of the Statute and Article 96 of the Charter of the United Nations.

By virtue of Article 65 of the Statute, the Court may give an advisory opinion on any legal question at the request of whatever body may be authorized by or in accordance with the Charter of the United Nations to make such a request. An exact statement of the questions upon which the advisory opinion is asked must be contained in a *request for an advisory opinion*.

Article 96, paragraph 1, of the Charter provides that advisory opinions may be asked of the Court by the General Assembly or the Security Council on any legal question. Paragraph 2 of this Article adds:

> "Other organs of the United Nations and specialized agencies, which may at any time be so authorized by the General Assembly, may also request advisory opinions of the Court on legal questions arising within the scope of their activities."

The following organs and agencies are at present authorized to request advisory opinions[3]:

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[1] An application for interpretation of the Judgment was made by Colombia in respect of the *Asylum (Colombia/Peru)* case and by Nigeria in respect of the Court's Judgment on preliminary objections of 11 June 1998 in the case concerning the *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria)*.

[2] An application for revision of the Court's Judgment on preliminary objections of 11 July 1996 was filed by Yugoslavia in the case concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia)*. An application for revision and interpretation of the Judgment was filed by Tunisia in respect of the case concerning the *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)*. An application for revision of the Judgment of 11 September 1992 was filed by El Salvador in the case concerning the *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening)*.

[3] The International Refugee Organization, which had been authorized to request advisory opinions of the Court, ceased to exist in 1952. The Havana Charter for an International Trade Organization, which provides for the jurisdiction of the Court in proceedings in regard to advisory opinions, has not entered into force.

United Nations:
  General Assembly[1],
  Security Council[2],
  Economic and Social Council[3],
  Trusteeship Council,
  Interim Committee of the General Assembly;
International Labour Organization;
Food and Agriculture Organization of the United Nations;
United Nations Educational, Scientific and Cultural Organization[4];
World Health Organization[5];
International Bank for Reconstruction and Development;
International Finance Corporation;
International Development Association;
International Monetary Fund;
International Civil Aviation Organization;
International Telecommunication Union;
International Fund for Agricultural Development;
World Meteorological Organization;
International Maritime Organization[6];
World Intellectual Property Organization;
United Nations Industrial Development Organization;
International Atomic Energy Agency.

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[1] The General Assembly has requested 15 advisory opinions of the Court in the following 14 cases: *Conditions of Admission of a State to Membership in the United Nations (Article 4 of the Charter)*; *Reparation for Injuries Suffered in the Service of the United Nations*; *Interpretation of Peace Treaties with Bulgaria, Hungary and Romania, First Phase*; id., *Second Phase*; *Competence of the General Assembly for the Admission of a State to the United Nations*; *International Status of South West Africa*; *Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide*; *Effect of Awards of Compensation Made by the United Nations Administrative Tribunal*; *Voting Procedure on Questions Relating to Reports and Petitions concerning the Territory of South West Africa*; *Admissibility of Hearings of Petitioners by the Committee on South West Africa*; *Certain Expenses of the United Nations (Article 17, Paragraph 2, of the Charter)*; *Western Sahara*; *Applicability of the Obligation to Arbitrate under Section 21 of the United Nations Headquarters Agreement of 26 June 1947*; *Legality of the Threat or Use of Nuclear Weapons*; *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*.

[2] The Security Council requested an advisory opinion of the Court concerning the *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970)*.

[3] The Economic and Social Council requested an advisory opinion of the Court in two cases: *Applicability of Article VI, Section 22, of the Convention on the Privileges and Immunities of the United Nations* and *Difference Relating to Immunity from Legal Process of a Special Rapporteur of the Commission on Human Rights*.

[4] The Executive Board of Unesco requested an advisory opinion of the Court concerning *Judgments of the Administrative Tribunal of the ILO upon Complaints Made against Unesco*.

[5] The World Health Assembly requested an advisory opinion of the Court in two cases: *Interpretation of the Agreement of 25 March 1951 between the WHO and Egypt* and *Legality of the Use by a State of Nuclear Weapons in Armed Conflict*.

[6] The Assembly of this organization requested an advisory opinion of the Court concerning the *Constitution of the Maritime Safety Committee of the Inter-Governmental Maritime Consultative Organization*.

In Section I of Chapter IV of the present *Yearbook* (pp. 109-115) will be found references to the instruments by virtue of which such requests may be submitted by the above organs and agencies.

CHAPTER IV

TEXTS GOVERNING THE JURISDICTION OF THE COURT

The present chapter, which is compiled from the information available to the Registry, presents a compendium of instruments governing the jurisdiction of the Court. It takes into account, so far as the Registry is informed of them, any amendments to those instruments which have affected their provisions concerning the jurisdiction of the Court. The inclusion or omission of any instrument should not be regarded as an indication of any view entertained by the Registry, or *a fortiori* by the Court, regarding the nature, scope or validity of the instrument in question.

I. INSTRUMENTS GOVERNING THE RELATIONSHIP OF ORGANS OF THE UNITED NATIONS AND INTERNATIONAL ORGANIZATIONS WITH THE COURT

This section lists provisions for the contentious or advisory jurisdiction of the Court in the following categories of instruments: constitutional texts of public international organizations; agreements concluded between the United Nations and other international organizations; authorizations accorded by the General Assembly of the United Nations to other organs of the United Nations or to international organizations by virtue of Article 96, paragraph 2, of the Charter[1]; multilateral conventions relating to the privileges and immunities of world-wide international organizations; agreements concluded by international organizations with States.

1. United Nations

Authorization to the *General Assembly* and the *Security Council* to request advisory opinions of the International Court of Justice: Charter, Article 96, paragraph 1.

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[1] By resolution 957 (X) of 8 November 1955 the General Assembly, amending the Statute of the United Nations Administrative Tribunal (Art. 11), authorized the *Committee on Applications for Review of Judgements of the United Nations Administrative Tribunal* to request advisory opinions of the International Court of Justice. By resolution 50/54 of 11 December 1995, the General Assembly amended the Tribunal's Statute again, *inter alia* deleting Article 11 with respect to Judgements rendered after 31 December 1995.

Authorization to the *Economic and Social Council* to request advisory opinions of the International Court of Justice: resolution 89 (I) of the General Assembly, 11 December 1946.

Authorization to the *Trusteeship Council* to request advisory opinions of the International Court of Justice: resolution 171 (II) of the General Assembly, 14 November 1947, paragraph B.

Authorization to the *Interim Committee of the General Assembly* to request advisory opinions of the International Court of Justice: resolution 196 (III) of the General Assembly, 3 December 1948, paragraph 3[1].

Convention on the privileges and immunities of the United Nations, adopted by the General Assembly on 13 February 1946, Article VIII, Section 30 (United Nations, *Treaty Series*, I, No. 4, Vol. 1).

Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations, 26 June 1947, Article VIII, Section 21 (United Nations, *Treaty Series*, I, No. 147, Vol. 11).

Agreement between Chile and the United Nations Economic Commission for Latin America regulating conditions for the operation, in Chile, of the Headquarters of the Commission, 16 February 1953, Article XI, Section 21 (United Nations, *Treaty Series*, I, No. 4541, Vol. 314).

Agreement between the United Nations and Thailand relating to the Headquarters of the Economic Commission for Asia and the Far East in Thailand, 26 May 1954, Article XIII, Section 26 (United Nations, *Treaty Series*, I, No. 3703, Vol. 260).

Agreement between the United Nations and Ethiopia regarding the Headquarters of the United Nations Economic Commission for Africa, 18 June 1958, Article IX (United Nations, *Treaty Series*, I, No. 4597, Vol. 317).

Agreement between the United Nations and Japan regarding the Headquarters of the United Nations University, 14 May 1976, Section 22 (United Nations, *Treaty Series*, I, No. 14839, Vol. 1009).

Agreement between the United Nations and Greece regarding the headquarters of the Co-ordinating Unit for the Mediterranean Action Plan, 11 February 1982, Section 26 (United Nations, *Treaty Series*, I, No. 20736, Vol. 1261).

2. *All Specialized Agencies*

Convention on the privileges and immunities of the specialized agencies, approved by the General Assembly of the United Nations on

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[1] The mandate of the Interim Committee was extended indefinitely by resolution 295 (IV) of the General Assembly of 21 November 1949, paragraph 3 of which preserved its authority to request advisory opinions of the Court.

21 November 1947, Article VII, Section 24, and Article IX, Section 32 (United Nations, *Treaty Series*, I, No. 521, Vol. 33).

3. *International Labour Organization*

Instrument for the amendment of the Constitution of the International Labour Organisation, 9 October 1946, Articles 29, 31-34 and 37 (United Nations, *Treaty Series*, I, No. 229, Vol. 15).

Agreement between the United Nations and the International Labour Organisation, approved by the General Assembly of the United Nations on 14 December 1946, Article IX (United Nations, *Treaty Series*, II, No. 9, Vol. 1).

Statute of the Administrative Tribunal of the International Labour Organisation, adopted by the International Labour Conference on 9 October 1946 and modified by the Conference on 29 June 1949, Article XII[1].

4. *Food and Agriculture Organization of the United Nations*

Constitution of the Food and Agriculture Organization of the United Nations, 16 October 1945, as amended in 1957, Article XVII (Food and Agriculture Organization of the United Nations, *Basic Texts*, Vol. I, 1968).

Agreement between the United Nations and the Food and Agriculture Organization of the United Nations, approved by the General Assembly of the United Nations on 14 December 1946, Article IX (United Nations, *Treaty Series*, II, No. 10, Vol. 1).

Terms of appointment of the Director-General of the Food and Agriculture Organization of the United Nations: recommendation by the Conference of the Organization, 27 October 1945, paragraph 3 (Food and Agriculture Organization of the United Nations, *Report of the First Session of the Conference*, 16 October-1 November 1945).

5. *United Nations Educational, Scientific and Cultural Organization*

Constitution of the United Nations Educational, Scientific and Cultural Organization, 16 November 1945, Articles V, paragraph 11 (adopted in

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[1] The jurisdiction of this Tribunal, which is open to officials of the International Labour Organisation or other persons claiming under the terms of appointment of an official, has been recognized also by the following international organizations, which are authorized to request advisory opinions: Food and Agriculture Organization of the United Nations; United Nations Educational, Scientific and Cultural Organization; World Health Organization; International Telecommunication Union; World Meteorological Organization; World Intellectual Property Organization; International Atomic Energy Agency.

1952), and XIV, paragraph 2 (United Nations, *Treaty Series*, I, No. 52, Vol. 4)[1].

Agreement between the United Nations and the United Nations Educational, Scientific and Cultural Organization, approved by the General Assembly of the United Nations on 14 December 1946, as revised and approved by the General Assembly of the United Nations on 8 December 1962, Article X[2] (United Nations, *Treaty Series*, II, No. 11, Vol. 1; *ibid.*, General Assembly, resolution 1786 (XVII)).

Agreement between the United Nations Educational, Scientific and Cultural Organization and France regarding the Headquarters of Unesco and the privileges and immunities of the Organization on French territory, 2 July 1954, Article 29 (United Nations, *Treaty Series*, I, No. 5103, Vol. 357).

6. *World Health Organization*

Constitution of the World Health Organization, 22 July 1946, Articles 75-77 (United Nations, *Treaty Series*, I, No. 221, Vol. 14).

Agreement between the United Nations and the World Health Organization, approved by the General Assembly of the United Nations on 15 November 1947, Article X (United Nations, *Treaty Series*, II, No. 115, Vol. 19).

7. *International Bank for Reconstruction and Development, International Finance Corporation and International Development Association*

Agreement between the United Nations and the International Bank for Reconstruction and Development, approved by the General Assembly of the United Nations on 15 November 1947, Article VIII (United Nations, *Treaty Series*, II, No. 109, Vol. 16).

Agreement on relationship between the United Nations and the International Finance Corporation, approved by the General Assembly of the United Nations on 20 February 1957, paragraph 1 (United Nations, *Treaty Series*, II, No. 546, Vol. 265).

Agreement on relationship between the United Nations and the International Development Association, approved by the General Assembly of the United Nations on 27 March 1961, Article I (United Nations, *Treaty Series*, II, No. 582, Vol. 394).

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[1] See also Rules of Procedure of the General Conference of Unesco, Rule 33, and the Protocol of 10 December 1962 instituting a Conciliation and Good Offices Commission to be responsible for seeking the settlement of any disputes which may arise between States parties to the Convention against Discrimination in Education, Article 18 (Unesco document 12C/Resolutions).

[2] Article XI before the revision of 1962.

8. International Monetary Fund

Agreement between the United Nations and the International Monetary Fund, approved by the General Assembly of the United Nations on 15 November 1947, Article VIII (United Nations, *Treaty Series*, II, No. 108, Vol. 16).

9. International Civil Aviation Organization

Convention on International Civil Aviation, 7 December 1944, Articles 84-86 (United Nations, *Treaty Series*, I, No. 10612, Vol. 740; ICAO, *Convention on International Civil Aviation*, 1969).

Agreement between the United Nations and the International Civil Aviation Organization, approved by the General Assembly of the United Nations on 14 December 1946, Article X (United Nations, *Treaty Series*, II, No. 45, Vol. 8).

Agreement between the International Civil Aviation Organization and Canada regarding the Headquarters of the Organization, 14 April 1951, Article VII, Section 31 (United Nations, *Treaty Series*, I, No. 1335, Vol. 96).

10. International Telecommunication Union

Agreement between the United Nations and the International Telecommunication Union, approved by the General Assembly of the United Nations on 15 November 1947, Article VII (United Nations, *Treaty Series*, II, No. 175, Vol. 30).

11. World Meteorological Organization

Agreement between the United Nations and the World Meteorological Organization, approved by the General Assembly of the United Nations on 20 December 1951, Article VII (United Nations, *Treaty Series*, II, No. 415, Vol. 123).

12. International Maritime Organization

Convention on the Inter-Governmental Maritime Consultative Organization, 6 March 1948, entered into force on 17 March 1958, Articles 55 and 56 (United Nations, *Treaty Series*, I, No. 4214, Vol. 289)[1].

Agreement between the United Nations and the Inter-Governmental Maritime Consultative Organization, approved by the General Assembly of the United Nations on 18 November 1948, entered into force on 13 January 1959, Article IX (United Nations, *Treaty Series*, II, No. 553, Vol. 324).

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[1] As from 22 May 1982 the Inter-Governmental Maritime Consultative Organization (IMCO) became the International Maritime Organization (IMO); the name of the organization was changed in the title of the 1948 Convention and the relevant Articles of the Convention were re-numbered 69 and 70.

13. World Intellectual Property Organization

Agreement between the United Nations and the World Intellectual Property Organization, approved by the General Assembly of the United Nations on 17 December 1974, Article 12 (United Nations, *Treaty Series*, II, No. 729).

14. International Fund for Agricultural Development

Agreement between the United Nations and the International Fund for Agricultural Development, approved by the General Assembly of the United Nations on 15 December 1977, Article XIII (United Nations, *Treaty Series*, II, No. 806, Vol. 1080).

15. United Nations Industrial Development Organization

Constitution of the United Nations Industrial Development Organization, 8 April 1979, Article 22 (United Nations, *Treaty Series*, I, No. 23432, Vol. 1401).

Agreement between the United Nations Organization and the United Nations Industrial Development Organization, approved by the General Assembly of the United Nations on 17 December 1985, Article 12.

16. International Atomic Energy Agency

Statute of the International Atomic Energy Agency, 26 October 1956, Article XVII (United Nations, *Treaty Series*, I, No. 3988, Vol. 276).

Agreement concerning the relationship between the United Nations and the International Atomic Energy Agency, approved by the General Assembly of the United Nations on 14 November 1957, Article X (United Nations, *Treaty Series*, II, No. 548, Vol. 281).

Authorization to the International Atomic Energy Agency to request advisory opinions of the International Court of Justice: resolution 1146 (XII) of the General Assembly of the United Nations, 14 November 1957.

Agreement on the privileges and immunities of the International Atomic Energy Agency, approved by the Board of Governors of the Agency on 1 July 1959, Article X, Section 34 (United Nations, *Treaty Series*, I, No. 5334, Vol. 374).

Agreement between the International Atomic Energy Agency and Iraq, Lebanon, Libya, Tunisia, United Arab Republic, etc., for the establishment in Cairo of a Middle Eastern regional radio-isotope centre for the

Arab countries, approved by the Board of Governors of the Agency on 14 September 1962, Article XVI (United Nations, *Treaty Series*, I, No. 7236, Vol. 494).

Nordic Mutual Emergency Assistance Agreement in connection with radiation accidents, signed on 17 October 1963 by the International Atomic Energy Agency, Denmark, Finland, Norway and Sweden, Article IX (United Nations, *Treaty Series*, I, No. 7585, Vol. 525).

II. DECLARATIONS RECOGNIZING AS COMPULSORY THE JURISDICTION OF THE COURT

The texts of declarations under Article 36, paragraph 2, of the Statute, which had not expired by effluxion of time, or whose withdrawal or replacement had not been notified by 31 July 2004 will be found below. The fact that a declaration is or is not included in this section, is without prejudice to its possible application by the Court in a particular case.

The declaration of Slovakia recognizing as compulsory the jurisdiction of the Court was deposited with the Secretary-General of the United Nations during the 12 months under review, on 28 May 2004. It was the first such declaration made by that State. On 5 July 2004 the United Kingdom notified the Secretary-General of its decision to amend its declaration of 1 January 1969.

In view of the provisions of Article 36, paragraph 5, of the Statute of the International Court of Justice, the present section also contains the texts of declarations made under the Statute of the *Permanent Court of International Justice* which have not lapsed or been withdrawn. There are now six such declarations.

The declarations, deposited by a total of 65 States[1], are given here in English[2]. Where this is not the original language of the declaration, the translations used, except where otherwise indicated, are by the Secretariat of the United Nations or of the League of Nations.

The date shown after the name of the State is that on which the declaration was deposited.

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[1] Since 1951, thirteen other declarations relating to the jurisdiction of the International Court of Justice, either expressly or by virtue of Article 36, paragraph 5, of the Statute, have expired, been withdrawn or been terminated without being subsequently replaced. These were the declarations of the following States: Bolivia, Brazil, China, Colombia, El Salvador, France, Guatemala, Iran, Israel, South Africa, Thailand, Turkey and the United States (United Nations, *Treaty Series*, I, No. 261, Vol. 16; I, No. 237, Vol. 15; I, No. 5, Vol. 1; *I.C.J. Yearbook 1987-1988*, pp. 70-72; United Nations, *Treaty Series*, I, No. 8196, Vol. 562; I, No. 12, Vol. 1; *I.C.J. Yearbook 1946-1947*, p. 211; *I.C.J. Yearbook 1984-1985*, pp. 79-80; United Nations, *Treaty Series*, I, No. 2935, Vol 216; I, No. 844, Vol. 65; I, No. 50, Vol. 4; *I.C.J. Yearbook 1984-1985*, pp. 99-100).

[2] French texts of the declarations are given in the French counterpart of the *I.C.J. Yearbook*, the *C.I.J. Annuaire*.

AUSTRALIA[1]

22 III 2002.

Whereas on the first day of November one thousand nine hundred and forty-five Australia ratified the Charter of the United Nations, of which the Statute of the International Court of Justice is an integral part; and

Whereas the Government of Australia deposited for and on behalf of Australia on the first day of November one thousand nine hundred and forty-five its instrument of ratification to the Statute of the International Court of Justice done at San Francisco on the twenty-sixth day of June, one thousand nine hundred and forty-five; and

Whereas Australia made a declaration under paragraph 2 of Article 36, of the said Statute on the thirteenth day of March one thousand nine hundred and seventy-five effective until such time as notice may be given to withdraw that declaration;

The Government of Australia, having considered the said declaration, hereby gives notice effective immediately of the *withdrawal* of that declaration and *replaces* the same with the following declaration:

The Government of Australia declares that it recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice in conformity with paragraph 2 of Article 36 of the Statute of the Court, until such time as notice may be given to the Secretary-General of the United Nations withdrawing this declaration. This declaration is effective immediately.

This declaration does not apply to:

(*a*) any dispute in regard to which the parties thereto have agreed or shall agree to have recourse to some other method of peaceful settlement;

(*b*) any dispute concerning or relating to the delimitation of maritime zones, including the territorial sea, the exclusive economic zone and the continental shelf, or arising out of, concerning, or relating to the exploitation of any disputed area of or adjacent to any such maritime zone pending its delimitation;

(*c*) any dispute in respect of which any other party to the dispute has accepted the compulsory jurisdiction of the Court only in relation to or for the purpose of the dispute; or where the acceptance of the Court's compulsory jurisdiction on behalf of any other party to the dispute was deposited less than 12 months prior to the filing of the application bringing the dispute before the Court.

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[1] This declaration replaced that of 13 March 1975 (United Nations, *Treaty Series*, Vol. 961, p. 183), notice of the withdrawal and termination of which was given by letter of 22 March 2002, received by the Secretary-General of the United Nations.

In witness whereof, I, Alexander John Gosse Downer, Minister for Foreign Affairs, have hereunto set my hand and affixed my seal.

Done at Canberra this 21st day of March, two thousand and two.

(*Signed*) Alexander John Gosse DOWNER,
Minister for Foreign Affairs of Australia.

AUSTRIA

19 V 71.

I hereby declare that the Republic of Austria recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State which accepts or has accepted the same obligation, the jurisdiction of the International Court of Justice in all legal disputes referred to in paragraph 2 of Article 36 of the Statute of the International Court of Justice.

This Declaration does not apply to any dispute in respect of which the parties thereto have agreed or shall agree to have recourse to other means of peaceful settlement for its final and binding decision.

This Declaration shall remain in force for a period of five years and thereafter until it will be terminated or modified by a written declaration.

Done at Vienna on 28 April 1971.

(*Signed*) JONAS,
The Federal President.

In witness whereof the present declaration has been countersigned by the Federal Chancellor and the Minister for Foreign Affairs and the national seal of the Republic of Austria has been affixed thereto.

(*Signed*) Bruno KREISKY,
The Federal Chancellor.
(*Signed*) Rudolf KIRCHSCHLAEGER,
The Federal Minister for Foreign Affairs.

BARBADOS

1 VIII 80.

I have the honour to declare on behalf of the Government of Barbados that:

The Government of Barbados accepts as compulsory, *ipso facto*, and without special agreement, on condition of reciprocity, the jurisdiction of the International Court of Justice in conformity with paragraph 2 of Article 36 of the Court until such time as notice might be given to terminate the acceptance, over all disputes arising after the declaration is made, other than:

(*a*) disputes in regard to which parties have agreed or shall agree to have recourse to some other method of peaceful settlement,

(*b*) disputes with the government of any other country which is a Member of the Commonwealth of Nations, all of which disputes shall be settled in such manner as the parties have agreed or shall agree,

(*c*) disputes with regard to questions which by international law fall exclusively within the jurisdiction of Barbados,

(*d*) disputes arising out of or concerning jurisdiction or rights claimed or exercised by Barbados in respect of the conservation, management or exploitation of the living resources of the sea, or in respect of the prevention or control of pollution or contamination of the marine environment in marine areas adjacent to the coast of Barbados.

24 July 1980.

(*Signed*) H. de B. FORDE,
Minister of External Affairs.

BELGIUM[1]

[Translation from the French] 17 VI 58.

I declare on behalf of the Belgian Government that I recognize as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice, in conformity with Article 36, paragraph 2, of the Statute of the Court, in legal disputes arising after 13 July 1948 concerning situations or facts subsequent to that date, except those in regard to which the parties have agreed or may agree to have recourse to another method of pacific settlement.

This declaration is made subject to ratification[2]. It shall take effect on the day of deposit of the instrument of ratification for a period of five years. Upon the expiry of that period, it shall continue to have effect until notice of its termination is given.

Brussels, 3 April 1958.

(*Signed*) V. LAROCK,
Minister
for Foreign Affairs.

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[1] Belgium had deposited in 1948 a declaration valid for five years (United Nations *Treaty Series*, I, No. 260, Vol. 16).

[2] The instrument of ratification was deposited on 17 June 1958.

BOTSWANA

16 III 70.

I, Sir Seretse Khama, President of the Republic of Botswana, have the honour to declare on behalf of the Government of the Republic of Botswana, that it recognizes as compulsory *ipso facto* and without special agreement, on condition of reciprocity, the jurisdiction of the International Court of Justice, in accordance with paragraph 2 of Article 36 of the Statute of the Court.

This Declaration does not extend:

- (*a*) to disputes in respect of which the parties have agreed or shall agree to have recourse to another means of peaceful settlement; or
- (*b*) to disputes relating to matters which, by international law, are essentially within the domestic jurisdiction of the Republic of Botswana.

The Government of the Republic of Botswana also reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect as from the moment of such notification, either to add to, amend or withdraw any of the foregoing reservations, or any that may hereafter be added.

Done at Gaborone this 14th day of January in the year of our Lord one thousand nine hundred and seventy.

(*Signed*) Seretse M. KHAMA,
President.

BULGARIA

[*Translation from the Bulgarian*] 24 VI 92.

On behalf of the Government of the Republic of Bulgaria, I have the honour to declare that in conformity with Article 36, paragraph 2, of the Statute of the International Court of Justice the Republic of Bulgaria recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the Court in all legal disputes arising out of facts and situations subsequent to or continuing to exist after the entry into force of the present Declaration, concerning:

1. the interpretation of a treaty;
2. any question of international law;
3. the existence of any fact which, if established, would constitute a breach of an international obligation;
4. the nature or extent of the reparation to be made for the breach of an international obligation.

except for disputes with any State which has accepted the compulsory jurisdiction of the International Court of Justice under Article 36, paragraph 2, of the Statute less than twelve months prior to filing an application bringing the dispute before the Court or where such acceptance has been made only for the purpose of a particular dispute.

The Republic of Bulgaria also reserves the right at any time to modify the present Declaration, the modifications taking effect six months after the deposit of the notification thereof.

The present Declaration shall be in force for a period of five years from the date of its deposit with the Secretary-General of the United Nations. It shall continue in force thereafter until six months after a notice of its denunciation is given to the Secretary-General of the United Nations.

Sofia, 26 May 1992.

(*Signed*) S. GANEV,
Minister of Foreign Affairs
of the Republic of Bulgaria.

CAMBODIA

[*Translation from the French*] 19 IX 57.

On behalf of the Royal Government of Cambodia I have the honour to declare that, in accordance with Article 36, paragraph 2, of the Statute of the International Court of Justice, I recognize as compulsory *ipso facto* and without special agreement, in relation to any other State Member of the United Nations accepting the same obligation, that is to say on condition of reciprocity, the jurisdiction of the said Court in all legal disputes, other than:

(1) disputes in regard to which the parties to the dispute have agreed or shall agree to have recourse to some other method of peaceful settlement;

(2) disputes with regard to questions which by international law fall exclusively within the jurisdiction of the Kingdom of Cambodia;

(3) disputes relating to any matter excluded from judicial settlement or compulsory arbitration by virtue of any treaty, convention or other international agreement or instrument to which the Kingdom of Cambodia is a party.

This declaration is valid for ten years from the date of its deposit. It shall remain in force thereafter until notice to the contrary has been given by the Royal Government of Cambodia.

Phnom-Penh, 9 September 1957.

(*Signed*) SIM VAR.

CAMEROON

[Translation from the French by the Registry] 3 III 94.

On behalf of the Government of the Republic of Cameroon, I have the honour to declare that:

The Government of the Republic of Cameroon, in accordance with Article 36, paragraph 2, of the Statute of the Court, recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the Court in all legal disputes.

This declaration shall remain in force for a period of five years. It shall subsequently continue to produce effect until contrary notification or written amendment by the Government of the Republic of Cameroon.

(Signed) Ferdinand Léopold OYONO,
Minister for Foreign Affairs.

CANADA

10 V 94.

On behalf of the Government of Canada,

(1) I give notice that I hereby terminate the acceptance by Canada of the compulsory jurisdiction of the International Court of Justice hitherto effective by virtue of the declaration made on 10 September 1985[1] in conformity with paragraph 2 of Article 36 of the Statute of the Court.

(2) I declare that the Government of Canada accepts as compulsory *ipso facto* and without special convention, on condition of reciprocity, the jurisdiction of the International Court of Justice, in conformity with paragraph 2 of Article 36 of the Statute of the Court, until such time as notice may be given to terminate the acceptance, over all disputes arising after the present declaration with regard to situations or facts subsequent to this declaration, other than:

(a) disputes in regard to which the parties have agreed or shall agree to have recourse to some other method of peaceful settlement;

(b) disputes with the Government of any other country which is a member of the Commonwealth, all of which disputes shall be settled in such manner as the parties have agreed or shall agree;

(c) disputes with regard to questions which by international law fall exclusively within the jurisdiction of Canada; and

(d) disputes arising out of or concerning conservation and management measures taken by Canada with respect to vessels fishing in the NAFO Regulatory Area, as defined in the Convention on Future Multilateral Co-operation in the Northwest Atlantic Fisheries, 1978, and the enforcement of such measures.

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[1] *I.C.J. Yearbook 1992-1993*, pp. 79-80.

(3) The Government of Canada also reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect as from the moment of such notification, either to add to, amend or withdraw any of the foregoing reservations, or any that may hereafter be added.

It is requested that this notification be communicated to the Governments of all the States that have accepted the Optional Clause and to the Registrar of the International Court of Justice.

New York, 10 May 1994.

(*Signed*) Louise FRÉCHETTE,
Ambassador and
Permanent Representative.

COSTA RICA

[Translation from the Spanish] 20 II 73.

The Government of Costa Rica recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice in all legal disputes of the kinds referred to in Article 36, paragraph 2, of the Statute of the International Court of Justice. This Declaration shall be valid for a period of five years and shall be understood to be tacitly renewed for like periods, unless denounced before the expiration of the said period.

San José, 5 February 1973.

(*Signed*) Gonzalo J. FACIO,
Minister for Foreign Affairs.

CÔTE D'IVOIRE

[Translation from the French] 29 VIII 2001.

Concerned on the one hand to ensure the peaceful and equitable settlement of all international disputes, particularly those in which it might be involved, and on the other hand to contribute to the development and strengthening of international law, the Republic of Côte d'Ivoire, pursuant to Article 36, paragraph 2, of the Statute of the International Court of Justice, declares that it recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice in all legal disputes concerning:

(*a*) the interpretation of a treaty;
(*b*) any question of international law;

(*c*) the existence of any fact which, if established, would constitute a breach of an international obligation;

(*d*) the nature or extent of the reparation to be made for the breach of an international obligation;

with the exception of:

1. disputes concerning which the parties have agreed to have recourse to some other method of settlement;
2. disputes with regard to questions which by international law fall within the exclusive competence of Côte d'Ivoire.

The present declaration has been made for an unlimited period, subject to the power of denunciation and modification attached to any obligation assumed by a State in its international relations.

It will enter into force when it is received by the Secretary-General of the United Nations.

Abidjan, 22 August 2001.

(*Signed*) Sangaré Abou DRAHAMANE,
Minister of State,
Minister for Foreign Affairs.

CYPRUS[1]

3 IX 2002.

I have the honour on behalf of the Government of the Republic of Cyprus to declare, in conformity with paragraph 2 of Article 36 of the Statute of the International Court of Justice, that the Republic of Cyprus accepts as compulsory *ipso facto* and without special agreement, on condition of reciprocity, the jurisdiction of the Court, in relation to any other State accepting the same obligation, over all legal disputes concerning:

(*a*) the interpretation of any treaty

  I. to which the Republic of Cyprus became a party on or after 16 August 1960 or
  II. which the Republic of Cyprus recognizes as binding on it by succession;

(*b*) any question of international law;

(*c*) the existence of any fact which, if established, would constitute a breach of an international obligation;

(*d*) the nature or extent of the reparation to be made for the breach of an international obligation.

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[1] This declaration replaced that of 29 April 1988 (United Nations, *Treaty Series*, Vol. 1502, p. 337), notice of the withdrawal and termination of which was given by letter of 3 September 2002, received by the Secretary-General of the United Nations.

Provided that this declaration shall not apply:

i. to disputes in respect of which any other party to the dispute has accepted the compulsory jurisdiction of the International Court of Justice only in relation to or for the purpose of the dispute; or where the acceptance of the Court's compulsory jurisdiction on behalf of any other party to the dispute was deposited or ratified less than twelve months prior to the filing of the application bringing the dispute before the Court;

ii. to disputes relating to questions which fall within the domestic jurisdiction of the Republic of Cyprus.

2. The Government of the Republic of Cyprus also reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect as from the moment of such notification, either to add to, amend or withdraw this declaration or any of the foregoing reservations or any that may hereafter be added.

Nicosia, 3 September 2002.

(*Signed*) Ioannis KASOULIDES,
Minister for Foreign Affairs.

DEMOCRATIC REPUBLIC OF THE CONGO

[Translation from the French] 8 II 89.

. . . in accordance with Article 36, paragraph 2, of the Statute of the International Court of Justice:

The Executive Council of the Republic of Zaire recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the Court in all legal disputes concerning:

(*a*) the interpretation of a treaty;
(*b*) any question of international law;
(*c*) the existence of any fact which, if established, would constitute a breach of an international obligation;
(*d*) the nature or extent of the reparation to be made for the breach of an international obligation.

It is understood further that this declaration will remain in force until notice of its revocation is given.

(*Signed*) Bagbeni Adeito NZENGEYA,
Ambassador Extraordinary and Plenipotentiary,
Permanent Representative of Zaire
to the United Nations.

DENMARK[1]

[Translation from the French] 10 XII 56.

In conformity with the Royal Decree of 3 December 1956, I have the honour, on behalf of the Danish Government, to make the following declaration:

Pursuant to Article 36, paragraph 2, of the Statute of the International Court of Justice, the Kingdom of Denmark recognizes as compulsory *ipso facto* and without special agreement the jurisdiction of the Court in relation to any other State accepting the same obligation, that is to say on condition of reciprocity, for a period of five years from 10 December 1956 and thereafter for further periods of five years, if this declaration is not denounced by notice of not less than six months before the expiration of any five-year period.

New York, 10 December 1956.

(Signed) Karl I. ESKELUND,
Ambassador Extraordinary and Plenipotentiary,
Permanent Representative
to the United Nations.

DOMINICAN REPUBLIC

[Translation from the French] 30 IX 24.

On behalf of the Government of the Dominican Republic and subject to ratification[2], I recognize, in relation to any other Member or State accepting the same obligation, that is to say, on the sole condition of reciprocity, the jurisdiction of the Court as compulsory, *ipso facto* and without special convention.

Geneva, 30 September 1924.

(Signed) Jacinto R. DE CASTRO.

EGYPT

22 VII 57.

I, Mahmoud Fawzi, Minister for Foreign Affairs of the Republic of Egypt, declare on behalf of the Government of the Republic of Egypt, that, in accordance with Article 36 (2) of the Statute of the International Court of Justice and in pursuance and for the purposes of paragraph 9 *(b)* of the Declaration of the Government of the Republic of Egypt dated 24 April 1957, on "the Suez Canal and the arrangements for its operation"[3], the Government of the Republic of Egypt accept as compulsory

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[1] This declaration replaced that of 10 December 1946, which had been made for a period of ten years as from that date (United Nations, *Treaty Series*, I, No. 10, Vol. 1).

[2] The instrument of ratification was deposited on 4 February 1933.

[3] United Nations, *Treaty Series*, I, No. 3821, Vol. 265.

ipso facto, on condition of reciprocity and without special agreement, the jurisdiction of the International Court of Justice in all legal disputes that may arise under the said paragraph 9 *(b)* of the above Declaration dated 24 April 1957, with effect as from that date.

18 July 1957.

(Signed) Mahmoud FAWZI.

ESTONIA

21 X 91.

I, Arnold Rüütel, Chairman of the Supreme Council of the Republic of Estonia, declare on behalf of the Republic of Estonia and in accordance with the Resolution of September 26, 1991 of the Supreme Council of the Republic of Estonia, that the Republic of Estonia recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, on condition of reciprocity, the jurisdiction of the International Court of Justice, in conformity with paragraph 2 of Article 36 of the Statute of the Court,

provided that this declaration shall not apply to disputes, the solution of which the parties shall entrust to other tribunals by virtue of agreements already in existence or which may be concluded in the future.

Tallinn, 10 October 1991.

(Signed) A. RÜÜTEL,
Chairman of the Supreme Council.

FINLAND

[Translation from the French] 25 VI 58.

On behalf of the Finnish Government, I hereby declare that I recognize as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, that is to say, on condition of reciprocity, the jurisdiction of the International Court of Justice, in accordance with Article 36, paragraph 2, of the Statute of the Court, for a period of five years from 25 June 1958. This declaration shall be renewed by tacit agreement for further periods of the same duration, unless it is denounced not later than six months before the expiry of any such period. This declaration shall apply only to disputes arising in regard to situations or facts subsequent to 25 June 1958.

New York, 25 June 1958.

(Signed) G. A. GRIPENBERG,
Permanent Representative of Finland
to the United Nations.

GAMBIA

22 VI 66.

In accordance with Article 36, paragraph 2, of the Statute of the International Court of Justice, I declare, on behalf of the Government of the Gambia, that the Gambia recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice until such time as notice may be given to terminate the acceptance, over all disputes arising in the future concerning:

(a) the interpretation of a treaty;
(b) any question of international law;
(c) the existence of any fact which, if established, would constitute a breach of an international obligation;
(d) the nature or extent of the reparation to be made for the breach of an international obligation;

with the reservation, however, that this declaration does not apply to

(a) disputes in regard to which the parties have agreed to a settlement other than by recourse to the International Court of Justice;
(b) disputes with any country in the Commonwealth;
(c) disputes which, by international law, fall exclusively within the jurisdiction of the Gambia.

Bathurst, 14 June 1966.

(Signed) A. B. N'JIE,
Minister of State for External Affairs.

GEORGIA

20 VI 95.

I have the honour on behalf of the Republic of Georgia to declare that, in accordance with paragraph 2 of Article 36 of the Statute of the International Court of Justice, the Republic of Georgia recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the Court in all legal disputes referred to in paragraph 2 of Article 36 of the Statute of the International Court of Justice.

Tbilisi, 16 June 1995.

(Signed) Alexander CHIKVAIDZE,
Minister of Foreign Affairs
of the Republic of Georgia.

GREECE

[Translation from the French] 10 I 94.

I declare, on behalf of the Greek Government, that I recognize as compulsory *ipso facto* and without special agreement, on condition of reciprocity, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice in all legal disputes referred to in Article 36, paragraph 2, of the Statute of the Court. However, the Greek Government excludes from the competence of the Court any dispute relating to defensive military action taken by the Hellenic Republic for reasons of national defence.

This declaration shall remain in force for a period of five years. Upon the expiry of that period, it shall continue to have effect until notice of its termination is given.

Athens, 20 December 1993.

(Signed) Karolos PAPOULIAS,
Minister for Foreign Affairs.

GUINEA

[Unofficial translation from the French by the Registry] 4 XII 98.

I have the honour, in the name of the Government of the Republic of Guinea, to declare that, in conformity with Article 36, paragraph 2, of the Statute of the International Court of Justice, the said Government accepts as compulsory *ipso facto* and without special agreement, in relation to any other States accepting the same obligation, the jurisdiction of the Court in all legal disputes arising since 12 December 1958 and subsequent to this declaration concerning:

(a) the interpretation of a treaty;
(b) any question of international law;
(c) the existence of any fact which, if established, would constitute a breach of an international obligation;
(d) the nature or extent of the reparation to be made for the breach of an international obligation;

The Republic of Guinea makes this declaration on condition of reciprocity on the part of all States. However, it may refuse to accept the jurisdiction of the Court in the case of:

(a) disputes in respect of which the parties have agreed to have recourse to some other mode of settlement;
(b) disputes concerning questions which, under international law, fall within the exclusive jurisdiction of the Republic of Guinea.

Finally, the Government of the Republic of Guinea reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, to amend or withdraw this declaration.

Conakry, 11 November 1998.

(Signed) Lamine KAMARA,
Minister for Foreign Affairs.

GUINEA-BISSAU

[Translation from the French] 7 VIII 89.

In accordance with Article 36, paragraph 2, of the Statute of the International Court of Justice, the Republic of Guinea-Bissau accepts as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the Court in all legal disputes referred to in Article 36, paragraph 2, of the Statute thereof.

This declaration will remain in force until six months following the date on which the Government of Guinea-Bissau makes known its intention of terminating it.

New York, 7 August 1989.

(Signed) Raul A. DE MELO CABRAL,
Chargé d'affaires a.i.

HAITI

[Translation from the French] 4 X 21.

On behalf of the Republic of Haiti, I recognize the jurisdiction of the Permanent Court of International Justice as compulsory.

(Signed) F. ADDOR,
Consul.

HONDURAS

[Translation from the Spanish] 6 VI 86.

The Government of the Republic of Honduras, duly authorized by the National Congress under Decree No. 75-86 of 21 May 1986 to modify the Declaration made on 20 February 1960 concerning Article 36, paragraph 2, of the Statute of the International Court of Justice, *hereby declares* that it modifies the Declaration made by it on 20 February 1960[1] as follows:

1. It recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice in all legal disputes concerning:

   (a) the interpretation of a treaty;
   (b) any question of international law;

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[1] *I.C.J. Yearbook 1984-1985*, pp. 78-79.

(c) the existence of any fact which, if established, would constitute a breach of an international obligation;

(d) the nature or extent of the reparation to be made for the breach of an international obligation.

2. This Declaration shall not apply, however, to the following disputes to which the Republic of Honduras may be a party:

(a) disputes in respect of which the parties have agreed or may agree to resort to other means for the pacific settlement of disputes;

(b) disputes concerning matters subject to the domestic jurisdiction of the Republic of Honduras under international law;

(c) disputes relating to facts or situations originating in armed conflicts or acts of a similar nature which may affect the territory of the Republic of Honduras, and in which it may find itself involved directly or indirectly;

(d) disputes referring to:

(i) territorial questions with regard to sovereignty over islands, shoals and keys; internal waters, bays, the territorial sea and the legal status and limits thereof;

(ii) all rights of sovereignty or jurisdiction concerning the legal status and limits of the contiguous zone, the exclusive economic zone and the continental shelf;

(iii) the airspace over the territories, waters and zones referred to in this subparagraph.

3. The Government of Honduras also reserves the right at any time to supplement, modify or withdraw this Declaration or the reservations contained therein by giving notice to the Secretary-General of the United Nations.

4. This Declaration replaces the Declaration made by the Government of Honduras on 20 February 1960.

National Palace, Tegucigalpa, D.C., 22 May 1986.

(Signed) José AZCONA H.,
President of the Republic.

(Signed) Carlos LÓPEZ CONTRERAS,
The Secretary of State for Foreign Affairs.

HUNGARY

22 X 92.

The Republic of Hungary hereby recognizes as compulsory *ipso facto* and without special agreement, on condition of reciprocity, the jurisdiction of the International Court of Justice, in accordance with Article 36, paragraph 2, of the Statute of the Court in all disputes which may arise in respect of facts or situations subsequent to this declaration, other than:

(a) disputes in regard to which the parties to the dispute have agreed or shall agree to have recourse to some other method of peaceful settlement;

(b) disputes in regard to matters which by international law fall exclusively within the domestic jurisdiction of the Republic of Hungary;

(c) disputes relating to, or connected with, facts or situations of hostilities, war, armed conflicts, individual or collective actions taken in self-defence or the discharge of any functions pursuant to any resolution or recommendation of the United Nations, and other similar or related acts, measures or situations in which the Republic of Hungary is, has been or may in the future be involved;

(d) disputes in respect of which any other party to the dispute has accepted the compulsory jurisdiction of the Court only in relation to or for the purpose of such dispute; or where the acceptance of the Court's compulsory jurisdiction on behalf of any other party to the dispute was deposited less than twelve months prior to the filing of the application bringing the dispute before the Court.

The Government of the Republic of Hungary reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect of six months of such notification to amend, add to or withdraw any of the foregoing reservations or any that may hereafter be added.

This declaration shall remain in force until the expiration of six months after notification has been given of its termination.

Budapest, 7 October 1992.

(*Signed*) Dr. GÉZA JESZENSZKY,
Minister for Foreign Affairs
of the Republic of Hungary.

INDIA

18 IX 74.

I have the honour to declare, on behalf of the Government of the Republic of India, that they accept, in conformity with paragraph 2 of Article 36 of the Statute of the Court, until such time as notice may be given to terminate such acceptance, as compulsory *ipso facto* and without special agreement, and on the basis and condition of reciprocity, the jurisdiction of the International Court of Justice over all disputes other than:

(1) disputes in regard to which the parties to the dispute have agreed or shall agree to have recourse to some other method or methods of settlement;

(2) disputes with the government of any State which is or has been a Member of the Commonwealth of Nations;

(3) disputes in regard to matters which are essentially within the domestic jurisdiction of the Republic of India;

(4) disputes relating to or connected with facts or situations of hostilities, armed conflicts, individual or collective actions taken in self-defence, resistance to aggression, fulfilment of obligations imposed by international bodies, and other similar or related acts, measures or situations in which India is, has been or may in future be involved;

(5) disputes with regard to which any other party to a dispute has accepted the compulsory jurisdiction of the International Court of Justice exclusively for or in relation to the purposes of such dispute; or where the acceptance of the Court's compulsory jurisdiction on behalf of a party to the dispute was deposited or ratified less than 12 months prior to the filing of the application bringing the dispute before the Court;

(6) disputes where the jurisdiction of the Court is or may be founded on the basis of a treaty concluded under the auspices of the League of Nations, unless the Government of India specially agree to jurisdiction in each case;

(7) disputes concerning the interpretation or application of a multilateral treaty unless all the parties to the treaty are also parties to the case before the Court or Government of India specially agree to jurisdiction;

(8) disputes with the government of any State with which, on the date of an application to bring a dispute before the Court, the Government of India has no diplomatic relations or which has not been recognized by the Government of India;

(9) disputes with non-sovereign States or territories;

(10) disputes with India concerning or relating to:

   (*a*) the status of its territory or the modification or delimitation of its frontiers or any other matter concerning boundaries;

   (*b*) the territorial sea, the continental shelf and the margins, the exclusive fishery zone, the exclusive economic zone, and other zones of national maritime jurisdiction including for the regulation and control of marine pollution and the conduct of scientific research by foreign vessels;

   (*c*) the condition and status of its islands, bays and gulfs and that of the bays and gulfs that for historical reasons belong to it;

   (*d*) the airspace superjacent to its land and maritime territory; and

   (*e*) the determination and delimitation of its maritime boundaries.

(11) disputes prior to the date of this declaration, including any dispute the foundations, reasons, facts, causes, origins, definitions, allegations or bases of which existed prior to this date, even if they are submitted or brought to the knowledge of the Court hereafter.’

2. This declaration revokes and replaces the previous declaration made by the Government of India on 14 September 1959[1].

New Delhi, 15 September 1974.

(*Signed*) Swaran SINGH,
Minister for External Affairs.

JAPAN

15 IX 58.

I have the honour, by direction of the Minister for Foreign Affairs, to declare on behalf of the Government of Japan, that in conformity with paragraph 2 of Article 36 of the Statute of the International Court of Justice, Japan recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation and on condition of reciprocity, the jurisdiction of the International Court of Justice, over all disputes which arise on and after the date of the present declaration with regard to situations or facts subsequent to the same date and which are not settled by other means of peaceful settlement.

This declaration does not apply to disputes which the parties thereto have agreed or shall agree to refer for final and binding decision to arbitration or judicial settlement.

This declaration shall remain in force for a period of five years and thereafter until it may be terminated by a written notice.

New York, 15 September 1958.

(*Signed*) Koto MATSUDAIRA,
Permanent Representative of Japan
to the United Nations.

KENYA

19 IV 65.

I have the honour to declare, on behalf of the Government of the Republic of Kenya that it accepts, in conformity with paragraph 2 of Article 36 of the Statute of the International Court of Justice until such time as notice may be given to terminate such acceptance, as compulsory *ipso facto* and without special agreement, and on the basis and condition of reciprocity, the jurisdiction over all disputes arising after 12 December 1963 with regard to situations or facts subsequent to that date, other than:

(1) disputes in regard to which the parties to the dispute have agreed or shall agree to have recourse to some other method or methods of settlement;

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[1] United Nations, *Treaty Series*, I, No. 4871, Vol. 340.

(2) dispute with the government of any State which, on the date of this Declaration is a Member of the Commonwealth of Nations or may so become subsequently;

(3) disputes with regard to questions which by general rules of international law fall exclusively within the jurisdiction of Kenya;

(4) disputes concerning any question relating to or arising out of belligerent or military occupation or the discharge of any functions pursuant to any recommendation or decision of an organ of the United Nations, in accordance with which the Government of the Republic of Kenya have accepted obligations.

The Government of the Republic of Kenya reserves the right at any time by means of a notification addressed to the Secretary-General of the United Nations to add to, amend, or withdraw any of the foregoing reservations. Such notifications shall be effective on the date of their receipt by the Secretary-General of the United Nations.

Nairobi, 12 April 1965.

(*Signed*) Joseph MURUMBI,
Minister for External Affairs.

LESOTHO

6 IX 2000.

On behalf of the Kingdom of Lesotho, I have the honour to declare that the Kingdom of Lesotho recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State which accepts or has accepted the same obligation, the jurisdiction of the International Court of Justice in all legal disputes referred to in paragraph 2 of Article 36 of the Statute of the International Court of Justice.

This Declaration does not apply to any dispute the solution of which the parties thereto have agreed or shall agree to have recourse to other means of peaceful settlement for its final and binding decision.

This Declaration shall remain in force until notice of its termination is given.

Dated at Maseru, this 31st day of August 2000.

(*Signed*) Motsoahae Thomas THABANE,
Minister of Foreign Affairs.

LIBERIA

20 III 52.

On behalf of the Government of the Republic of Liberia, I, Gabriel L. Dennis, Secretary of State of Liberia, subject to ratification, declare that the Republic of Liberia recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State, also a party to the Statute pursuant to Article 93 of the United Nations Charter, which accepts the same obligation (i.e., subject to reciprocity), the jurisdiction of the International Court of Justice in all legal disputes arising after ratification concerning:

(*a*) the interpretation of a treaty;
(*b*) any question of international law;
(*c*) the existence of any fact which, if established, would constitute a breach of an international obligation;
(*d*) the nature or extent of the reparation to be made for the breach of an international obligation.

This declaration does not apply:

(*a*) to any dispute which the Republic of Liberia considers essentially within its domestic jurisdiction;
(*b*) to any dispute in regard to which the parties have agreed or may agree to bring before other tribunals as a result of agreements already existing or which may be made in the future.

The present declaration has been made for a period of five years as from the date of deposit of the ratification[1] and thereafter until notice of termination is given.

Done at Monrovia this 3rd day of March 1952.

(*Signed*) Gabriel L. DENNIS,
Secretary of State.

LIECHTENSTEIN

[*Translation from the French*] 29 III 50.

The Government of the Principality of Liechtenstein, duly authorized by His Serene Highness, the Reigning Prince François Joseph II, in accordance with the Order of the Diet of the Principality of Liechtenstein dated 9 March 1950, which came into force on 10 March 1950,

declares by these presents that the Principality of Liechtenstein recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice in all legal disputes concerning:

(*a*) the interpretation of a treaty;
(*b*) any question of international law;
(*c*) the existence of any fact which, if established, would constitute a breach of an international obligation;

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[1] The instrument of ratification, dated 30 March 1953, was deposited on 17 April 1953.

(*d*) the nature or extent of the reparation to be made for the breach of an international obligation.

The present declaration, which is made under Article 36 of the Statute of the International Court of Justice, shall take effect from the date on which the Principality becomes a party to the Statute[1] and shall have effect as long as the declaration has not been revoked subject to one year's notice.

Done at Vaduz, 10 March 1950.

On behalf of the Government of
the Principality of Liechtenstein,
(*Signed*) A. FRICK,
The Head of Government.

LUXEMBOURG[2]

[*Translation from the French*] 15 IX 30.

The Government of the Grand-Duchy of Luxembourg recognizes as compulsory, *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, that is to say on condition of reciprocity, the jurisdiction of the Court in conformity with Article 36, paragraph 2, of the Statute, in any disputes arising after the signature of the present declaration with regard to situations or facts subsequent to this signature, except in cases where the parties have agreed or shall agree to have recourse to another procedure or to another method of pacific settlement. The present declaration is made for a period of five years. Unless it is denounced six months before the expiration of that period, it shall be considered as renewed for a further period of five years and similarly thereafter.

Geneva, 15 September 1930.

(*Signed*) BECH.

MADAGASCAR

[*Translation from the French*] 2 VII 92.

On behalf of the Government of Madagascar, I declare under Article 36, paragraph 2, of the Statute of the International Court of Justice that Madagascar accepts as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation and until such time as notice may be given to terminate this acceptance, the compulsory jurisdiction of the Court in all legal disputes concerning:

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[1] Liechtenstein became a party to the Statute of the Court on 29 March 1950.

[2] The Government of Luxembourg had in 1921 signed the Optional Clause subject to ratification. That declaration was, however, never ratified.

- the interpretation of a treaty;
- any question of international law;
- the existence of any fact which, if established, would constitute a breach of an international obligation;
- the nature or extent of the reparation to be made for the breach of an international obligation.

The present declaration does not apply:

- to disputes in regard to which the parties have agreed to have recourse to some other method of settlement;
- disputes relating to questions which, under international law, fall exclusively within the jurisdiction of Madagascar.

The Government of Madagascar also reserves the right to add to, amend or withdraw the foregoing reservations by means of a notification addressed to the Secretary-General of the United Nations, which would take effect on the date of its receipt by the Secretary-General.

Antananarivo, 12 May 1992.

(*Signed*) Césaire RABENORO,
Minister for Foreign Affairs.

MALAWI

12 XII 66.

On behalf of the Government of Malawi, I declare under Article 36, paragraph 2, of the Statute of the International Court of Justice that I recognize as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, on condition of reciprocity, the jurisdiction of the International Court of Justice in all legal disputes which may arise in respect of facts or situations subsequent to this declaration concerning—

(*a*) the interpretation of a treaty;
(*b*) any question of international law;
(*c*) the existence of any fact which, if established, would constitute a breach of an international obligation;
(*d*) the nature or extent of the reparation to be made for the breach of an international obligation:

Provided that this declaration shall not apply to—

(i) disputes with regard to matters which are essentially within the domestic jurisdiction of the Republic of Malawi as determined by the Government of Malawi;

(ii) disputes in regard to which the parties of the dispute have agreed or shall agree to have recourse to some other method of peaceful settlement; or

(iii) disputes concerning any question relating to or arising out of belligerent or military occupation.

The Government of Malawi also reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, to add to, amend, or withdraw any of the foregoing reservations or any that may hereafter be added. Such notifications shall be effective on the date of their receipt by the Secretary-General of the United Nations.

Given under my hand in Zomba this 22nd day of November 1966.

(*Signed*) H. KAMUZU BANDA,
President and
Minister for External Affairs.

MALTA[1]

6 XII 66.

I have the honour to declare, on behalf of the Government of Malta, that Malta accepts as compulsory *ipso facto* and without special convention, on condition of reciprocity, the jurisdiction of the International Court of Justice, in conformity with paragraph 2 of Article 36 of the Statute of the Court, until such time as notice may be given to terminate the acceptance, over all disputes other than:

(i) disputes in regard to which the Parties to the dispute have agreed or shall agree to have recourse to some other method of peaceful settlement;

(ii) disputes with the government of any other country which is a Member of the British Commonwealth of Nations, all of which disputes shall be settled in such manner as the Parties have agreed or shall agree;

(iii) disputes with regard to questions which by international law fall exclusively within the jurisdiction of Malta;

(iv) disputes concerning any question relating to or arising out of belligerent or military occupation or the discharge of any functions pursuant to any recommendation or decision of an organ of the United Nations, in accordance with which the Government of Malta have accepted obligations;

(v) disputes arising under a multilateral treaty, unless (1) all Parties to the treaty affected by the decision are also Parties to the case before the Court, or (2) the Government of Malta specially agrees to jurisdiction;

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[1] By letter of 13 May 1983 to the Secretary-General of the United Nations, the Minister for Foreign Affairs notified the withdrawal, with immediate effect, of a declaration concerning a particular category of disputes which was filed on 23 January 1981 and which is reproduced in *I.C.J. Yearbook 1981-1982*, p. 78.

- (vi) disputes relating to any matter excluded from compulsory adjudication or arbitration under any treaty, convention or other international agreement or instrument to which Malta is a Party;
- (vii) disputes in respect of which arbitral or judicial proceedings are taking, or have taken place with any State which, at the date of the commencement of the proceedings, had not itself accepted the compulsory jurisdiction of the International Court of Justice; and
- (viii) disputes in respect of which any other Party to the dispute has accepted the compulsory jurisdiction of the International Court of Justice only in relation to or for the purposes of the dispute; or where the acceptance of the Court's compulsory jurisdiction on behalf of any other Party to the dispute was deposited or ratified less than twelve months prior to the filing of the application bringing the dispute before the Court.

The Government of Malta also reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect as from the moment of such notification either to add to, amend or withdraw any of the foregoing reservations or any that may hereafter be added.

Valletta, 29 November 1966.

(*Signed*) G. FELICE,
Acting Minister of Commonwealth
and Foreign Affairs.

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2 IX 83.

I have the honour to refer to the declaration made by the Government of Malta on 29 November 1966, and notified on 6 December 1966, concerning the compulsory jurisdiction of the International Court of Justice and to give notice that, with effect from the moment this notification is received by Your Excellency, the acceptance of the Government of Malta of the jurisdiction of the Court shall be limited to all disputes with Malta other than

- (1) the disputes mentioned in paragraphs (i) to (viii) both inclusive, of the said declaration, and
- (2) the following categories of disputes, that is to say:

Disputes with Malta concerning or relating to:

- (*a*) its territory, including the territorial sea, and the status thereof,
- (*b*) the continental shelf or any other zone of maritime jurisdiction, and the resources thereof,
- (*c*) the determination or delimitation of any of the above,

(*d*) the prevention or control of pollution or contamination of the marine environment in marine areas adjacent to the coast of Malta.

The Government of Malta also reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect from the moment of such notification, either to add to, amend or withdraw any of the foregoing reservations or any that may hereafter be added.

(*Signed*) Alex SCEBERAS TRIGONA,
Minister for Foreign Affairs.

MAURITIUS

23 IX 68.

I have the honour to declare, on behalf of the Government of Mauritius, that Mauritius accepts as compulsory *ipso facto* and without special convention, on condition of reciprocity, the jurisdiction of the International Court of Justice, in conformity with paragraph 2 of Article 36 of the Statute of the Court, until such time as notice may be given to terminate the acceptance, over all disputes other than:

(i) disputes in regard to which the Parties to the dispute have agreed or shall agree to have recourse to some other method of peaceful settlement;

(ii) disputes with the Government of any other country which is a Member of the British Commonwealth of Nations, all of which disputes shall be settled in such manner as the parties have agreed or shall agree;

(iii) disputes with regard to questions which by international law fall exclusively within the jurisdiction of Mauritius;

(iv) disputes concerning any question relating to or arising out of belligerent or military occupation or the discharge of any functions pursuant to any recommendation or decision of an organ of the United Nations, in accordance with which the Government of Mauritius has accepted obligations;

(v) disputes relating to any matter excluded from compulsory adjudication or arbitration under any treaty, convention or other international agreement or instrument to which Mauritius is a party;

(vi) disputes in respect of which arbitral or judicial proceedings are taking, or have taken place with any State which, at the date of the commencement of the proceedings, had not itself accepted the compulsory jurisdiction of the International Court of Justice; and

(vii) disputes in respect of which any other Party to the dispute has accepted the compulsory jurisdiction of the International Court of Justice only in relation to or for the purposes of the dispute; or where the acceptance of the Court's compulsory jurisdiction on behalf of any other Party to the dispute was deposited or ratified less than twelve months prior to the filing of the application bringing the dispute before the Court.

The Government of Mauritius also reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect as from the moment of such notification either to add to, amend or withdraw any of the foregoing reservations or any that may hereafter be added.

Port Louis, 4 September 1968.

(*Signed*) S. RAMGOOLAM,
Prime Minister and
Minister for External Affairs.

MEXICO

[*Translation from the Spanish*] 28 X 47.

In regard to any legal dispute that may in future arise between the United States of Mexico and any other State out of events subsequent to the date of this Declaration, the Mexican Government recognizes as compulsory *ipso facto*, and without any special agreement being required therefor, the jurisdiction of the International Court of Justice in accordance with Article 36, paragraph 2, of the Statute of the said Court, in relation to any other State accepting the same obligation, that is, on condition of strict reciprocity. This Declaration, which does not apply to disputes arising from matters that, in the opinion of the Mexican Government, are within the domestic jurisdiction of the United States of Mexico, shall be binding for a period of five years as from 1 March 1947 and after that date shall continue in force until six months after the Mexican Government gives notice of denunciation.

Mexico, D.F., 23 October 1947.

(*Signed*) Jaime TORRES BODET,
Secretary of State for External Relations.

NAURU

9 IX 92.

On behalf of the Government of the Republic of Nauru, I have the honour to refer to the Republic's Declaration dated 30 December 1987[1], deposited with the United Nations Secretary-General on 29 January 1988, whereby the Republic has accepted as compulsory, *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice, in accordance with Article 36, paragraph 2, of the Statute of the Court, and stipulated that the acceptance of the Court's jurisdiction shall extend to all disputes to which the Republic is or may be a party, other than any dispute with respect to which there exists a dispute settlement mechanism under an agreement between the Republic of Nauru and another State.

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[1] *I.C.J. Yearbook 1987-1988*, p. 84.

I have the further honour to declare that the aforesaid Declaration shall stand renewed and extended on 29 January 1993 and continue to be in force for a further period of five years from that date.

In witness whereof, I set my hand and the Common Seal of the Republic of Nauru, this fourth day of the month of September one thousand nine hundred and ninety-two.

(*Signed*) Hammer DEROBURT,
President
and Minister for External Affairs,
Republic of Nauru.

NETHERLANDS

[Translation from the French] 1 VIII 56.

I hereby declare that the Government of the Kingdom of the Netherlands recognizes, in accordance with Article 36, paragraph 2, of the Statute of the International Court of Justice, with effect from 6 August 1956, as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, that is on condition of reciprocity, the jurisdiction of said Court in all disputes arising or which may arise after 5 August 1921, with the exception of disputes in respect of which the parties, excluding the jurisdiction of the International Court of Justice, may have agreed to have recourse to some other method of pacific settlement.

The aforesaid obligation is accepted for a period of five years and will be renewed by tacit agreement for additional periods of five years, unless notice is given, not less than six months before the expiry of any such period, that the Government of the Kingdom of the Netherlands does not wish to renew it.

The acceptance of the jurisdiction of the Court founded on the declaration of 5 August 1946[1] is terminated with effect from 6 August 1956.

New York, 1 August 1956.

(*Signed*) E. L. C. SCHIFF,
Acting Permanent Representative of the
Kingdom of the Netherlands to the United Nations.

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[1] United Nations, *Treaty Series*, I, No. 2, Vol. 1.

New Zealand

22 IX 77.

I have the honour, by direction of the Minister of Foreign Affairs of New Zealand, to declare on behalf of the Government of New Zealand:

(I) The acceptance by the Government of New Zealand of the compulsory jurisdiction of the International Court of Justice by virtue of the Declaration made on 1 April 1940[1] under Article 36 of the Statute of the Permanent Court of International Justice and made applicable to the International Court of Justice by paragraph 5 of Article 36 of the Statute of that Court, is hereby terminated.

(II) The Government of New Zealand accept as compulsory, *ipso facto*, and without special agreement, on condition of reciprocity, the jurisdiction of the International Court of Justice in conformity with paragraph 2 of Article 36 of the Court over all disputes other than:

(1) disputes in regard to which the parties have agreed or shall agree to have recourse to some other method of peaceful settlement;

(2) disputes in respect of which any other party to the dispute has accepted the compulsory jurisdiction of the International Court of Justice only in relation to or for the purpose of the dispute; or where the acceptance of the Court's compulsory jurisdiction on behalf of any other party to the dispute was deposited or ratified less than twelve months prior to the filing of the application bringing the dispute before the Court;

(3) disputes arising out of, or concerning, the jurisdiction or rights claimed or exercised by New Zealand in respect of the exploration, exploitation, conservation or management of the living resources in marine areas beyond and adjacent to the territorial sea of New Zealand but within 200 nautical miles from the baselines from which the breadth of the territorial sea is measured.

This Declaration shall remain in force for a period of five years from 22 September 1977 and thereafter until the expiration of six months after notice has been given of the termination of this Declaration provided that the Government of New Zealand reserves the right at any time to amend this Declaration in the light of the results of the Third United Nations Conference on the Law of the Sea in respect of the settlement of disputes.

New York, 22 September 1977.

(*Signed*) M. J. C. Templeton,
Permanent Representative of
New Zealand to the United Nations.

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[1] *I.C.J. Yearbook 1976-1977*, pp. 69 f.

NICARAGUA

[Translation from the French] 24 IX 29.

On behalf of the Republic of Nicaragua I recognize as compulsory unconditionally the jurisdiction of the Permanent Court of International Justice.

Geneva, 24 September 1929.

(Signed) T. F. MEDINA.

Reservation[1] 24 X 2001.

Nicaragua will not accept the jurisdiction or competence of the International Court of Justice in relation to any matter or claim based on interpretations of treaties or arbitral awards that were signed and ratified or made, respectively, prior to 31 December 1901.

Managua, 23 October 2001.

(Signed) Francisco X. AGUIRRE SACASA.

NIGERIA

30 IV 98.

I have the honour, on behalf of the Government of the Federal Republic of Nigeria, to declare that the acceptance by the Government of the Federal Republic of Nigeria of the compulsory jurisdiction of the International Court of Justice by virtue of the Declaration made on

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[1] This is the text of the reservation as received by the Secretary-General of the United Nations by letter of 23 October 2001. The first paragraph of that letter read as follows:

> "I have the honour to inform you and, through you, all the States parties to the Statute of the International Court of Justice and the Secretariat of the Court, of the reservation made to Nicaragua's voluntary acceptance of the jurisdiction of the International Court of Justice by Presidential Decision No. 335-2001 of 22 October 2001, issued by the President of the Republic, Mr. Arnoldo Alemán Lacayo, the text of which is as follows: . . ."

On 9 January 2002 the Secretary-General received from the Government of Costa Rica a communication transmitting the text of a formal objection to the reservation formulated by Nicaragua.

On 23 October 2002, the Permanent Mission of Costa Rica to the United Nations notified the Secretary-General of an Agreement of 26 September 2002 between the Governments of Nicaragua and of Costa Rica by which Nicaragua (*inter alia*) "undertakes to maintain for a period of three years from today's date, the legal status existing on today's date with respect to its declaration of acceptance of the jurisdiction of the International Court of Justice".

14 August 1965 under Article 36 of the Statute of the Court is hereby amended so as to read as set out in the following paragraph:

In conformity with paragraph 2 of Article 36 of the Statute, the Government of the Federal Republic of Nigeria accepts as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, that is to say, on condition of reciprocity, the jurisdiction of the Court over all legal disputes referred to in that paragraph of the Statute, other than:

(i) disputes in respect of which any party to the dispute has accepted the jurisdiction of the Court by a Declaration deposited less than twelve months prior to the filing of an Application bringing the dispute before the Court after the date of this amended Declaration;

(ii) disputes in respect of which any party has filed an Application in substitution for or in lieu of all or any part of any Application to which subparagraph (i) refers;

(iii) disputes relating to matters which are essentially within the domestic jurisdiction of the Federal Republic of Nigeria;

(iv) disputes in respect of which any other party to the dispute has accepted the jurisdiction of the Court in relation to or for the purposes of the dispute;

(v) disputes in regard to which the parties have agreed or agree to have recourse to any other method of peaceful settlement;

(vi) disputes relating to or connected with facts or situations of hostilities or armed conflict, whether internal or international in character;

(vii) disputes with any State with which the Government of Nigeria does not have diplomatic relations;

(viii) disputes concerning the allocation, delimitation or demarcation of territory (whether land, maritime, lacustrine or superjacent air space) unless the Government of Nigeria specially agrees to such jurisdiction and within the limits of any such special agreement;

(ix) disputes in relation to matters which arose prior to the date of Nigeria's independence, including any dispute the causes, origins or bases of which arose prior to that date.

The Government of the Federal Republic of Nigeria further reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect from the moment of such notification, to add to, amend or withdraw this Declaration or the reservations contained therein or any that may hereafter be added.

Done at Abuja, this 29th day of April 1998.

(*Signed*) Chief Tom Ikimi,
Hon. Minister of Foreign Affairs,
Federal Republic of Nigeria.

NORWAY[1]

25 VI 96

I hereby declare on behalf of the Royal Norwegian Government that Norway recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, that is on condition of reciprocity, the jurisdiction of the International Court of Justice in conformity with Article 36, paragraph 2, of the Statute of the Court, for a period of five years as from 3 October 1976. This declaration shall thereafter be tacitly renewed for additional periods of five years, unless notice of termination is given not less than six months before the expiration of the current period; provided, however, that the limitations and exceptions relating to the settlement of disputes pursuant to the provisions of, and the Norwegian declarations applicable at any given time to, the United Nations Convention on the Law of the Sea of 10 December 1982 and the Agreement of 4 December 1995 for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, shall apply to all disputes concerning the law of the sea.

New York, 24 June 1996.

(*Signed*) Hans Jacob Biorn LIAN,
Permanent Representative of
Norway to the United Nations

PAKISTAN[2]

13 IX 60

I have the honour, by direction of the President of Pakistan, to make the following declaration on behalf of the Government of Pakistan under Article 36, paragraph 2, of the Statute of the International Court of Justice:

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[1] This is the text of the declaration as amended by letter of 24 June 1996 received by the Secretary-General of the United Nations on the following day. The first paragraph of that letter read as follows:

> "On behalf of the Government of Norway,
>
> I give notice that I hereby amend the acceptance by Norway of the compulsory jurisdiction of the International Court of Justice hitherto effective by virtue of the declaration made on 2 April 1976 in conformity with paragraph 2 of Article 36 of the Statute of the Court. As amended, the declaration shall read . . ."

The declaration of 1976 replaced that of 17 December 1956 (United Nations, *Treaty Series*, I, No. 3642, Vol. 256).

[2] This declaration replaced that of 23 May 1957 (United Nations, *Treaty Series*, I, No. 3875, Vol. 269) notice of the withdrawal and termination of which was given by letter of 12 September 1960 received on the following day by the Secretary-General of the United Nations.

The Government of Pakistan recognize as compulsory *ipso facto* and without special agreement in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice in all legal disputes after 24 June 1948, arising, concerning:

(*a*) the interpretation of a treaty;
(*b*) any question of international law;
(*c*) the existence of any fact which, if established, would constitute a breach of an international obligation;
(*d*) the nature or extent of the reparation to be made for the breach of an international obligation;

Provided, that the declaration shall not apply to:

(*a*) disputes the solution of which the parties shall entrust to other tribunals by virtue of agreements already in existence or which may be concluded in the future; or
(*b*) disputes relating to questions which by international law fall exclusively within the domestic jurisdiction of Pakistan;
(*c*) disputes arising under a multilateral treaty unless
  (i) all parties to the treaty affected by the decision are also parties to the case before the Court, or
  (ii) the Government of Pakistan specially agree to jurisdiction; and

provided further, that this Declaration shall remain in force till such time as notice may be given to terminate it.

New York, 12 September 1960.

(*Signed*) Said HASAN,
Ambassador Extraordinary and Plenipotentiary,
Permanent Representative of Pakistan to the
United Nations.

PANAMA[1]

[*Translation from the French*] 25 X 21.

On behalf of the Government of Panama, I recognize, in relation to any other Member or State which accepts the same obligation, that is to say, on the sole condition of reciprocity, the jurisdiction of the Court as compulsory, *ipso facto* and without any special convention.

Paris, 25 October 1921.

(*Signed*) R. A. AMADOR,
Chargé d'affaires.

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[1] An instrument of ratification was deposited on 14 June 1929. Ratification was not required under the terms of the Optional Clause, the act of signature itself sufficing to make the undertaking binding, except where the declaration has been made expressly subject to ratification. Nevertheless, certain States, which had signed without any such reservation, subsequently ratified their declarations.

PARAGUAY

[Translation from the Spanish] 25 IX 96.

Whereas the Republic of Paraguay signed the Charter of the United Nations on 26 June 1945 in San Francisco and ratified it on 12 October of that year,

Having seen and examined the text of the Statute of the International Court of Justice, principal judicial organ of the United Nations, whose Article 36, paragraph 2, stipulates that States parties to the Statute may declare at any time and without special agreement that they recognize as compulsory the jurisdiction of the Court,

And whereas the National Congress agreed to recognize this by means of Act No. 913 of 7 August 1996,

Therefore:

I hereby accept on behalf of the Government of Paraguay the compulsory jurisdiction of the International Court of Justice, with headquarters at The Hague, reciprocally in relation to other States accepting the same obligation in respect of all disputes as provided for in Article 36, paragraph 2, of the Statute of the Court. The present declaration shall apply only to disputes arising subsequent to the date of this declaration.

In witness whereof I hereby sign this declaration, which is sealed with the national Seal and countersigned by the Minister for Foreign Affairs, Rubén Melgarejo Lanzoni, in the city of Asunción, capital of the Republic of Paraguay, on 17 September 1996.

(*Signed*) Juan Carlos WASMOSY,
President.

(*Signed*) Rubén MELGAREJO LANZONI,
Minister for Foreign Affairs.

PERU

[Translation from the Spanish] 7 VII 2003.

In accordance with Article 36, paragraph 2, of the Statute of the International Court of Justice, the Government of Peru recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation and on condition of reciprocity, the jurisdiction of the International Court of Justice in all legal disputes, until such time as it may give notice withdrawing this declaration.

This declaration does not apply to any dispute with regard to which the parties have agreed or shall agree to have recourse to arbitration or judicial settlement for a final and binding decision or which has been settled by some other method of peaceful settlement.

The Government of Peru reserves the right at any time by means of a notification addressed to the Secretary-General of the United Nations to amend or withdraw this declaration or reservations set out herein. Such notification shall take effect on the day on which it is received by the Secretary-General of the United Nations.

This declaration shall apply to countries that have entered reservations or set conditions with respect to it, with the same restrictions as set by such countries in their respective declarations.

Lima, 9 April 2003.

(*Signed*) Allan Wagner TIZÓN,
Minister for Foreign Affairs,
of the Republic of Peru.

PHILIPPINES[1]

18 I 72.

I, Carlos P. Romulo, Secretary of Foreign Affairs of the Republic of the Philippines, hereby declare, under Article 36, paragraph 2, of the Statute of the International Court of Justice, that the Republic of the Philippines recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice in all legal disputes arising hereafter concerning:

(*a*) the interpretation of a treaty;
(*b*) any question of international law;
(*c*) the existence of any fact which, if established, would constitute a breach of an international obligation;
(*d*) the nature or extent of the reparation to be made for the breach of an international obligation;

Provided, that this declaration shall not apply to any dispute

(*a*) in regard to which the parties thereto have agreed or shall agree to have recourse to some other method of peaceful settlement; or
(*b*) which the Republic of the Philippines considers to be essentially within its domestic jurisdiction; or
(*c*) in respect of which the other party has accepted the compulsory jurisdiction of the International Court of Justice only in relation to or for the purposes of such dispute; or where the acceptance of the compulsory jurisdiction was deposited or ratified less than 12 months prior to the filing of the application bringing the dispute before the Court; or

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[1] This declaration replaced that of 12 July 1947 (United Nations, *Treaty Series*, I, No. 101, Vol. 7).

(*d*) arising under a multilateral treaty, unless (1) all parties to the treaty are also parties to the case before the Court, or (2) the Republic of the Philippines specially agrees to jurisdiction; or

(*e*) arising out of or concerning jurisdiction or rights claimed or exercised by the Philippines

(i) in respect of the natural resources, including living organisms belonging to sedentary species, of the sea-bed and subsoil of the continental shelf of the Philippines, or its analogue in an archipelago, as described in Proclamation No. 370 dated 20 March 1968 of the President of the Republic of the Philippines; or

(ii) in respect of the territory of the Republic of the Philippines, including its territorial seas and inland waters; and

Provided, further, that this declaration shall remain in force until notice is given to the Secretary-General of the United Nations of its termination.

Done at Manila this 23rd day of December 1971.

(*Signed*) Carlos P. ROMULO,
Secretary of Foreign Affairs.

POLAND

25 III 96.

On behalf of the Government of the Republic of Poland I hereby declare that the Republic of Poland withdraws its consent to the compulsory jurisdiction of the International Court of Justice communicated on 25 September 1990[1] in light of Article 36, paragraph 2, of the Statute of the Court. At the same time, I hereby declare that the Republic of Poland shall recognize with the effect as of 25 September 1996, in accordance with the provisions of the aforementioned article, as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation and subject to the sole condition of reciprocity, the jurisdiction of the International Court of Justice in all legal disputes other than:

(*a*) disputes prior to 25 September 1990 or disputes arisen out of facts or situations prior to the same date,

(*b*) disputes with regard to the territory and State boundaries,

(*c*) disputes with regard to environmental protection,

(*d*) disputes with regard to foreign liabilities or debts,

(*e*) disputes with regard to any State which has made a declaration accepting the compulsory jurisdiction of the International Court of Justice less than twelve months prior to the filing of the application bringing the dispute before the Court,

(*f*) disputes in respect whereof the parties have agreed or shall agree to have recourse to other method of peaceful settlement,

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[1] *I.C.J. Yearbook 1994-1995*, pp. 109-110.

(*g*) disputes relating to matters which, by international law, fall exclusively within the domestic jurisdiction of the Republic of Poland.

The Government of the Republic of Poland reserves its right to withdraw or modify the present Declaration at any time and by means of a notification addressed to the Secretary-General of the United Nations, taking effect after six months from the moment whereof.

25 March 1996.

(*Signed*) Dariusz ROSATI,
Minister of Foreign Affairs.

PORTUGAL

19 XII 55.

Under Article 36, paragraph 2, of the Statute of the International Court of Justice, I declare on behalf of the Portuguese Government that Portugal recognizes the jurisdiction of this Court as compulsory *ipso facto* and without special agreement, as provided for in the said paragraph 2 of Article 36 and under the following conditions:

(1) the present declaration covers disputes arising out of events both prior and subsequent to the declaration of acceptance of the "optional clause" which Portugal made on 16 December 1920 as a party to the Statute of the Permanent Court of International Justice;

(2) the present declaration enters into force at the moment it is deposited with the Secretary-General of the United Nations; it shall be valid for a period of one year, and thereafter until notice of its denunciation is given to the said Secretary-General;

(3) the Portuguese Government reserves the right to exclude from the scope of the present declaration, at any time during its validity, any given category or categories of disputes, by notifying the Secretary-General of the United Nations and with effect from the moment of such notification.

Washington, D.C., 19 December 1955.

(*Signed*) L. ESTEVES FERNANDES.

SENEGAL[1]

[Translation from the French] 2 XII 85.

I have the honour, on behalf of the Government of the Republic of Senegal, to declare that, in conformity with Article 36, paragraph 2, of the Statute of the International Court of Justice, it accepts on condition of reciprocity as compulsory *ipso facto* and without special convention, in relation to any other State accepting the same obligation, the jurisdiction of the Court over all legal disputes arising after the present declaration, concerning:

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[1] This declaration replaced that of 3 May 1985 (*I.C.J. Yearbook 1984-1985*, p. 93).

- the interpretation of a treaty;
- any question of international law;
- the existence of any fact which, if established, would constitute a breach of an international obligation;
- the nature or extent of the reparation to be made for the breach of international obligation.

This declaration is made on condition of reciprocity on the part of all States. However, Senegal may reject the Court's competence in respect of:

- disputes in regard to which the parties have agreed to have recourse to some other method of settlement;
- disputes with regard to questions which, under international law, fall exclusively within the jurisdiction of Senegal.

Lastly, the Government of the Republic of Senegal reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, to add to, amend or withdraw the foregoing reservations.

Such notification would take effect on the date of its receipt by the Secretary-General.

Dakar, 22 October 1985.

(*Signed*) Ibrahima FALL,
Minister of Foreign Affairs
of the Republic of Senegal.

SERBIA AND MONTENEGRO[1]

26 IV 99.

I hereby declare that the Government of the Federal Republic of Yugoslavia recognizes, in accordance with Article 36, paragraph 2, of the Statute of the International Court of Justice, as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, that is on condition of reciprocity, the jurisdiction of the said Court in all disputes arising or which may arise after the signature of the present Declaration, with regard to the situations or facts subsequent to this signature, except in cases where the parties have agreed or shall agree to have recourse to another procedure or to another method of pacific settlement. The present Declaration does not apply to disputes relating to questions which, under international law, fall exclusively within the jurisdiction of the Federal Republic of Yugoslavia, as well as to territorial disputes.

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[1] See footnote 1, p. 98, above.

The aforesaid obligation is accepted until such time as notice may be given to terminate the acceptance.

New York, 25 April 1999.

(*Signed*) Vladislav JOVANOVIC,
Chargé d'affaires a.i. of
the Permanent Mission of Yugoslavia
to the United Nations.

SLOVAKIA

28 V 2004.

On behalf of the Slovak Republic I have the honour to declare that the Slovak Republic recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, that is on condition of reciprocity, the jurisdiction of the International Court of Justice in conformity with Article 36, paragraph 2, of the Statute of the Court over all legal disputes arising after the date of signature of the present declaration with regard to situations or facts subsequent to the same date.

This declaration does not apply to disputes:

(1) which the parties have agreed to settle by some other method of peaceful settlement;
(2) in respect of which any other Party to the dispute has accepted the jurisdiction of the International Court of Justice only in relation to or for the purpose of the dispute; or when the declaration recognizing the jurisdiction of the Court on behalf of any other Party to the dispute was deposited less than twelve months prior to the filing of the unilateral application bringing the dispute before the Court;
(3) with regard to the protection of environment;
(4) with regard to questions which by international law fall exclusively within the domestic jurisdiction of the Slovak Republic.

The Slovak Republic reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect as from the date of receipt of such notification, to amend or withdraw this declaration.

Done at Bratislava on 11 May 2004.

(*Signed*) Rudolf SCHUSTER,
President of the Slovak Republic.

SOMALIA

11 IV 63.

I have the honour to declare on behalf of the Government of the Somali Republic that the Somali Republic accepts as compulsory *ipso facto*, and without special agreement, on condition of reciprocity, the jurisdiction of the International Court of Justice, in conformity with paragraph 2 of Article 36 of the Statute of the Court, until such time as notice may be given to terminate the acceptance, over all legal disputes arising other than disputes in respect of which any other party to the dispute has accepted the compulsory jurisdiction of the International Court of Justice only in relation to or for the purposes of the dispute; or where the acceptance of the Court's compulsory jurisdiction on behalf of any other party to the dispute was deposited or ratified less than 12 months prior to the filing of the application bringing the dispute before the Court.

The Somali Republic also reserves the right at any time by means of a notification addressed to the Secretary-General of the United Nations, and with effect as from the moment of such notification, either to add to, amend or withdraw any of the foregoing reservations, or any that may hereafter be added.

Mogadishu, 25 March 1963.

(*Signed*) Abdullahi ISSA,

Minister for Foreign Affairs.

SPAIN

[Translation from the Spanish] 29 X 90.

1. On behalf of the Spanish Government, I have the honour to declare that the Kingdom of Spain accepts as compulsory *ipso facto* and without special agreement, the jurisdiction of the International Court of Justice, in conformity with Article 36, paragraph 2, of the Statute of the Court, in relation to any other State accepting the same obligation, on condition of reciprocity, in legal disputes not included among the following situations and exceptions:

(*a*) disputes in regard to which the Kingdom of Spain and the other party or parties have agreed or shall agree to have recourse to some other method of peaceful settlement of the dispute;

(*b*) disputes in regard to which the other party or parties have accepted the compulsory jurisdiction of the Court only in relation to or for the purposes of the dispute in question;

(*c*) disputes in regard to which the other party or parties have accepted the compulsory jurisdiction of the Court less than 12 months prior to the filing of the application bringing the dispute before the Court;

(*d*) disputes arising prior to the date on which this Declaration was deposited with the Secretary-General of the United Nations or relating to events or situations which occurred prior to that date, even if such events or situations may continue to occur or to have effects thereafter.

2. The Kingdom of Spain may at any time, by means of a notification addressed to the Secretary-General of the United Nations, add to, amend or withdraw, in whole or in part, the foregoing reservations or any that may hereafter be added. These amendments shall become effective on the date of their receipt by the Secretary-General of the United Nations.

3. The present Declaration, which is deposited with the Secretary-General of the United Nations in conformity with Article 36, paragraph 4, of the Statute of the International Court of Justice, shall remain in force until such time as it has been withdrawn by the Spanish Government or superseded by another declaration by the latter.

The withdrawal of the Declaration shall become effective after a period of six months has elapsed from the date of receipt by the Secretary-General of the United Nations of the relevant notification by the Spanish Government. However, in respect of States which have established a period of less than six months between notification of the withdrawal of their Declaration and its becoming effective, the withdrawal of the Spanish Declaration shall become effective after such shorter period has elapsed.

Madrid, 15 October 1990.

(*Signed*) Francisco FERNÁNDEZ ORDÓÑEZ,
Minister for Foreign Affairs.

SUDAN

2.1.58.

I have the honour by direction of the Ministry of Foreign Affairs to declare, on behalf of the Government of the Republic of the Sudan, that in pursuance of paragraph 2 of Article 36 of the Statute of the International Court of Justice, the Government of the Republic of the Sudan recognize as compulsory *ipso facto* and without special agreement, on condition of reciprocity, until such time as notice may be given to terminate this declaration, the jurisdiction of the International Court of Justice in all legal disputes arising after the first day of January 1956 with regard to situations or facts subsequent to that date concerning:

(*a*) the interpretation of a treaty concluded or ratified by the Republic of the Sudan on or after the first day of January 1956;
(*b*) any question of international law;
(*c*) the existence of any fact, which, if established, would constitute a breach of an international obligation; or
(*d*) the nature or extent of the reparation to be made for the breach of an international obligation;

but excluding the following:

(i) disputes in regard to which the parties to the dispute have agreed or shall agree to have recourse to some other method of peaceful settlement;
(ii) disputes in regard to matters which are essentially within the domestic jurisdiction of the Republic of the Sudan as determined by the Government of the Republic of the Sudan;
(iii) disputes arising out of events occurring during any period in which the Republic of the Sudan is engaged in hostilities as a belligerent.

New York, 30 December 1957.

(*Signed*) Yacoub OSMAN,
Permanent Representative of the Sudan
to the United Nations.

SURINAME

31 VIII 87.

I have the honour by direction of the Minister of Foreign Affairs of the Republic of Suriname, to declare on behalf of the Government of Suriname:

The Government of the Republic of Suriname recognizes, in accordance with Article 36, paragraph 2, of the Statute of the International Court of Justice, with effect from the seventh September 1987, as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, that is on condition of reciprocity, the jurisdiction of the said Court in all disputes, which have arisen prior to this Declaration or may arise after this Declaration, with the exception of:

(A) disputes which have arisen or may arise with respect to or in relation with the borders of the Republic of Suriname;
(B) disputes in respect of which the parties, excluding the jurisdiction of the International Court of Justice, have agreed to settlement by means of arbitration, mediation or other methods of conciliation and accommodation.

This Declaration shall be binding for a period of five years and shall continue in force after that period until twelve months after the Government of the Republic of Suriname has given notice of its termination.

New York, 31 August 1987.

(*Signed*) W. H. Werner VREEDZAAM,

Chargé d'affaires of the Permanent Mission
of the Republic of Suriname
to the United Nations.

SWAZILAND

26 V 69.

I, Prince Makhosini Jameson Dlamini, Prime Minister of the Kingdom of Swaziland to whom His Majesty has delegated responsibility for the conduct of foreign affairs, have the honour to declare on behalf of the Government of the Kingdom of Swaziland, that it recognizes as compulsory *ipso facto* and without special agreement, on condition of reciprocity, the jurisdiction of the International Court of Justice, in accordance with paragraph 2 of Article 36 of the Statute of the Court.

This Declaration does not extend:

(*a*) to disputes in respect of which the parties have agreed or shall agree to have recourse to another means of peaceful settlement; or

(*b*) to disputes relating to matters which, by international law, are essentially within the domestic jurisdiction of the Kingdom of Swaziland.

The Government of the Kingdom of Swaziland also reserves the right to add to, amend or withdraw this Declaration by means of a notification addressed to the Secretary-General of the United Nations, with effect as from the moment of such notification.

Mbabane, 9 May 1969.

(*Signed*) Makhosini Jameson DLAMINI,

Prime Minister and Minister
for Foreign Affairs.

SWEDEN[1]

[Translation from the French]

6 IV 57.

On behalf of the Royal Swedish Government, I declare that it accepts as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice, in accordance with Article 36, paragraph 2, of the Statute of the said Court, for a period of five years as from 6 April 1957. This obligation shall be renewed by tacit agreement for further periods of the same duration unless notice of abrogation is made at least six months before the expiration of any such period. The above-mentioned obligation is accepted only in respect of disputes which may arise with regard to situations or facts subsequent to 6 April 1947.

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[1] This declaration replaced that of 5 April 1947, which had been made for a period of ten years (United Nations, *Treaty Series*, I, No. 16, Vol. 2).

New York, 6 April 1957.

(*Signed*) Claes CARBONNIER,

Permanent Representative *a.i.*
of Sweden to the United Nations

SWITZERLAND

[Translation from the French] 28 VII 48.

The Swiss Federal Council, duly authorized for that purpose by a Federal decree which was adopted on 12 March 1948 by the Federal Assembly of the Swiss Confederation and became operative on 17 June 1948,

Hereby declares that the Swiss Confederation recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice in all legal disputes concerning:

(*a*) the interpretation of a treaty;
(*b*) any question of international law;
(*c*) the existence of any fact which, if established, would constitute a breach of an international obligation;
(*d*) the nature or extent of the reparation to be made for the breach of an international obligation.

This declaration, which is made under Article 36 of the Statute of the International Court of Justice, shall take effect from the date on which the Swiss Confederation becomes a party to that Statute[1] and shall have effect as long as it has not been abrogated subject to one year's notice.

Done at Berne, 6 July 1948.

On behalf of the Swiss Federal Council:

(*Signed*) CELIO,

The President of the Confederation.

(*Signed*) LEIMGRUBER,

The Chancellor of the Confederation

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[1] Switzerland became a party to the Statute of the Court on 28 July 1948.

Togo

[*Translation from the French*] (25 X 79)

The Togolese Republic,

Represented by His Excellency Mr. Akanyi-Awunyo Kodjovi, Ambassador Extraordinary and Plenipotentiary, Permanent Representative of Togo to the United Nations,

Acting pursuant to the provisions of Article 36, paragraphs 2 and 3, of the Statute of the International Court of Justice, annexed to the Charter of the United Nations,

Guided by its constant concern to ensure the peaceful and equitable settlement of all international disputes, particularly those in which it might be involved, and desiring to contribute to the strengthening of the international legal order based on the principles set forth in the Charter of the United Nations,

Declares that it recognizes as compulsory *ipso facto* and without special agreement in relation to any other State accepting the same obligation, that is, subject to reciprocity, the jurisdiction of the International Court of Justice in all disputes concerning:

(*a*) the interpretation of a treaty;
(*b*) any question of international law;
(*c*) the existence of any fact which, if established, would constitute a breach of an international obligation;
(*d*) the nature or extent of the reparation to be made for the breach of an international obligation.

The present declaration has been made for an unlimited period subject to the power of denunciation and modification attached to any obligation assumed by a sovereign State in its international relations. It will enter into force on the day on which it is received by the United Nations Secretariat.

New York, 24 October 1979.

(*Signed*) Akanyi-Awunyo Kodjovi.

Uganda

(3 X 63)

I hereby declare on behalf of the Government of Uganda that Uganda recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, and on condition of reciprocity, the jurisdiction of the International Court of Justice in conformity with paragraph 2 of Article 36 of the Statute of the Court.

New York, 3 October 1963.

(*Signed*) Apollo K. Kironde,

Ambassador and Permanent Representative
of Uganda to the United Nations.

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND[1]

5 VII 04

I have the honour, by direction of Her Majesty's Principal Secretary of State for Foreign and Commonwealth Affairs, to notify you, on behalf of the Government of the United Kingdom of Great Britain and Northern Ireland, that the United Kingdom's declaration under paragraph 2 of Article 38 of the Statute of the International Court of Justice dated 1 January 1969 is hereby amended, with immediate effect, so as to read as follows:

1. The Government of the United Kingdom of Great Britain and Northern Ireland accept as compulsory *ipso facto* and without special convention, on condition of reciprocity, the jurisdiction of the International Court of Justice, in conformity with paragraph 2 of Article 36 of the Statute of the Court, until such time as notice may be given to terminate the acceptance, over all disputes arising after 1 January 1974, with regard to situations or facts subsequent to the same date, other than:

(i) any dispute which the United Kingdom has agreed with the other Party or Parties thereto to settle by some other method of peaceful settlement;

(ii) any dispute with the government of any other country which is or has been a Member of the Commonwealth;

(iii) any dispute in respect of which any other Party to the dispute has accepted the compulsory jurisdiction of the International Court of Justice only in relation to or for the purpose of the dispute; or where the acceptance of the Court's compulsory jurisdiction on behalf of any other Party to the dispute was deposited or ratified less than twelve months prior to the filing of the application bringing the dispute before the Court.

2. The Government of the United Kingdom also reserve the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect as from the moment of such notification, either to add to, amend or withdraw any of the foregoing reservations, or any that may hereafter be added.

(*Signed*) EMYR JONES PARRY,

Permanent Representative of the United
Kingdom of Great Britain and Northern
Ireland to the United Nations.

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[1] This declaration replaced that of 1 January 1969 (United Nations, *Treaty Series*, Vol. 654, p. 335).

URUGUAY[1]

[Translation from the French] *Prior to* 28.I.21[2]

On behalf of the Government of Uruguay, I recognize, in relation to any Member or State accepting the same obligation, that is to say, on the sole condition of reciprocity, the jurisdiction of the Court as compulsory, *ipso facto* and without special convention.

(*Signed*) B. FERNANDEZ Y MEDINA.

III. CHRONOLOGICAL LIST OF OTHER INSTRUMENTS GOVERNING THE JURISDICTION OF THE COURT

Below is a chronological list of treaties and other instruments *notified to the Registry* following registration, classification or recording at the Secretariat of the United Nations which (in addition to certain texts referred to in Section I of the present chapter, the declarations reproduced in Section II and the special agreements whereby particular cases were submitted to the Court) contain clauses relating to the jurisdiction of the Court in contentious proceedings. A number of these clauses generally provide that disputes concerning the application or interpretation of the instrument may be referred to the Court for decision; others however refer only in general terms to submission of any dispute to the Court. For each instrument, the table mentions the date and place of signature, the title of the instrument, the relevant clause and the contracting parties, and also, as far as available, the number under which it has been registered or filed and recorded by the Secretariat and the volume in the United Nations *Treaty Series* in which it has been or will be published.

Where instruments prior to 1946 are mentioned they are instruments relating to the jurisdiction of the *Permanent Court of International Justice* which have been filed and recorded by the Secretariat of the United Nations and appear in the *Treaty Series* of the United Nations.

The fact that a treaty is or is not included in this section is without prejudice to its possible application by the Court in a particular case.

Any instrument not mentioned in previous *I.C.J. Yearbooks* is indicated by an asterisk.

1933	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
12 May	Ottawa	Convention concerning the rights of nationals and commercial and shipping matters (Art. 20)	Canada-France	II 545 Vol. 253

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[1] An instrument of ratification was deposited on 27 September 1921. Cf. the footnote to Panama, p. 147, above.

[2] The date on which this declaration (undated) was first published in a League of Nations document.

1939	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
17 Dec.	Bogota	Treaty of non-aggression, conciliation and judicial settlement (Art. XXIV)	Colombia Venezuela	II:896 Vol. 1257
1940				
30 Mar.	Caracas	Treaty for the pacific settlement of disputes	Brazil/Venezuela	II:195 Vol. 51
1944				
7 Dec.	Chicago	International air services transit agreement (Art. II, Sec. 2)	Multilateral	II:252 Vol. 84
7 Dec.	Chicago	International air transport agreement (Art. IV, Sec. 3)	Multilateral	II:502 Vol. 171
1946				
17 Apr.	Luxembourg	Convention concerning the Luxembourg railways (Art. 12)	Luxembourg Belgium/France	I:402 Vol. 27
4 Nov.	Nanking	Treaty of friendship, commerce and navigation (Art. XXVIII)	China[1] United States	I:359 Vol. 25
11 Dec.[2]	Lake Success	International convention relating to dangerous drugs, signed at Geneva, 19 Feb. 1925, as amended (Art. 32)	Multilateral	I:186 Vol. 12
11 Dec.[2]	Lake Success	International convention for limiting the manufacture and regulating the distribution of narcotic drugs, signed at Geneva on 13 July 1931, as amended (Art. 25)	Multilateral	I:186 Vol. 12
11 Dec.[2]	Lake Success	International convention for the suppression of illicit traffic in dangerous drugs, signed at Geneva on 26 June 1936, as amended (Art. 17)	Multilateral	I:186 Vol. 12
1947				
18 Apr.	Manila	Treaty of amity (Art. 2)	China[1]/Philippines	I:178 Vol. 11
9 July	Rome	Treaty of friendship and general relations (Art. V)	Italy/Philippines	I:674 Vol. 44
17 Oct.	London	Treaty regarding recognition of Burmese independence (Art. 14)	United Kingdom Burma	I:904 Vol. 70

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[1] All entries recorded throughout this Section in respect of China refer to actions taken by the authorities representing China in the United Nations at the time of those actions, and are to be understood in the light of General Assembly resolution 2758 (XXVI) of 25 October 1971.

[2] The date and place given here are those of the signature of the amending protocol.

1947 (cont.)	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
12 Nov.[1]	Lake Success	Convention (concluded at Geneva on 12 Sep. 1923) for the suppression of the circulation of and traffic in obscene publications, as amended (Art. 15)	Multilateral	I: 710 Vol. 46
12 Nov.[1]	Lake Success	Convention (concluded at Geneva on 11 Oct. 1933) for the suppression of traffic in women of full age, as amended (Art. 4)	Multilateral	I: 772 Vol. 53
1948				
24 Jan.	Paris	Agreement concerning monetary and financial relations (Art. 23)	France/Lebanon	I: 2263 Vol. 173
2 Feb.	Rome	Treaty of friendship, commerce and navigation (Art. XXVI)	United States/Italy	I: 1040 Vol. 79
30 Apr.	Bogota	American treaty on pacific settlement	Multilateral	I: 449 Vol. 30
21 May	New Delhi	Agreement relating to air services (Art. XI)	India/Sweden	I: 543 Vol. 34
23 June	Karachi	Agreement relating to air services (Art. XI)	Pakistan/India	I: 423 Vol. 28
28 June	Rome	Economic co-operation agreement (Art. X)	United States/Italy	I: 314 Vol. 20
28 June	Paris	Economic co-operation agreement (Art. X)	United States/ France	I: 302 Vol. 19
29 June	Copenhagen	Economic co-operation agreement (Art. X)	United States/ Denmark	I: 338 Vol. 22
2 July	Vienna	Economic co-operation agreement (Art. IX)	United States/ Austria	I: 323 Vol. 21
2 July	The Hague	Economic co-operation agreement (Art. X)	United States/ Netherlands	I: 315 Vol. 20
2 July	Athens	Economic co-operation agreement (Art. X)	United States/ Greece	I: 342 Vol. 23
2 July	Brussels	Economic co-operation agreement (Art. X)	United States/ Belgium	I: 300 Vol. 19
3 July	Oslo	Economic co-operation agreement (Art. X)	United States/ Norway	I: 317 Vol. 20
3 July	Reykjavik	Economic co-operation agreement (Art. X)	United States/ Iceland	I: 316 Vol. 20
3 July	Nanking	Economic co-operation agreement (Art. XI)	United States/ China[2]	I: 273 Vols. 17 and 45
3 July	Luxembourg	Economic co-operation agreement (Art. X)	United States/ Luxembourg	I: 350 Vol. 24

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[1] The date and place given here are those of the signature of the amending protocol.

[2] See footnote 1, p. 162, above.

1948 (cont.)	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
3 July	Stockholm	Economic co-operation agreement (Art. IX)	United States/Sweden	I/343 Vol. 23
4 July	Ankara	Economic co-operation agreement (Art. IX)	United States/Turkey	I/351 Vol. 24
6 July	London	Economic co-operation agreement (Art. X)	United States/United Kingdom	I/330 Vol. 22
28 Sep.	Lisbon	Economic co-operation agreement, as amended (Art. X)	United States/Portugal	I/442 Vol. 29
6 Oct.	Beirut	Treaty concerning consular arrangements, navigation, civil and commercial rights and establishment (Art. 33)	Greece/Lebanon	I/1179 Vol. 87
15/29 Nov.	Washington	*cf.* 1961, 23 Nov.		
9 Dec.	Paris (opened for signature)	Convention on the prevention and punishment of the crime of genocide (Art. IX)	Multilateral	I/1021 Vol. 78
1949				
3 Jan.	Karachi	Agreement relating to air services (Art. XI)	Pakistan/Ceylon	I/428 Vol. 28
28 Apr.	Lake Success (opened for accession)	Revised general act for the pacific settlement of international disputes	Multilateral	I/912 Vol. 71
14 June	Washington	Treaty of friendship (Art. II)	Thailand/Philippines	I/1062 Vol. 81
4 July	Berne	Convention concerning the construction and use of the Bâle-Mulhouse airport at Blotzheim (Art. 20)	France/Switzerland	I/22048 Vol. 1323
15 July	Lake Success (opened for signature)	Agreement for facilitating the international circulation of visual and auditory materials of an educational, scientific and cultural character (Art. IX)	Multilateral	I/2631 Vol. 197
30 Aug.	Ottawa	Agreement relating to air services (Art. 9)	Canada/Belgium	I/782 Vol. 53
10 Sep.	Guatemala City	Treaty of peace, friendship and co-operation (Art. 7)	Guatemala/Italy	I/1410 Vol. 102
19 Sep.	Geneva	Convention on road traffic (Art. 33)	Multilateral	I/1671 Vol. 125
20 Sep.	Beirut	Air transport agreement (Art. IX)	Netherlands/Lebanon	I/1474 Vol. 108
20 Oct.	New Delhi	Agreement relating to air services (Art. XI)	India/Philippines	I/934 Vol. 72
31 Oct.	Tehran	Agreement relating to air services (Art. 12)	Netherlands/Iran	I/3596 Vol. 254
1950				
12 Jan.	Canberra	Agreement relating to air services (Art. XII)	Australia/Ceylon	I/789 Vol. 53

1950 (cont.)	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
21 Jan.	Dublin	Treaty of friendship, commerce and navigation (Art. XXIII)	United States/Ireland	I:2292 Vol. 206
27 Jan.	Mexico City	Commercial agreement (Art. VII)	Netherlands/Mexico	I:1661 Vol. 123
18 Feb.	Tehran	Treaty of friendship (Art. IV)	Iran/Pakistan	I:2119 Vol. 161
21 Mar.	Lake Success (opened for signature)	Convention for suppression of traffic in persons and of exploitation of prostitution of others (Art. 22)	Multilateral	I:1342 Vol. 96
24 Mar.	Rome	Treaty of friendship, conciliation and judicial settlement (Arts. 18-24)	Turkey/Italy	I:1338 Vol. 96
6 Aug.	Cairo	Agreement relating to air transport services (Art. XVI)	Egypt/France	I:1710 Vol. 127
16 Aug.	Wellington	Agreement relating to air services (Art. X)	New Zealand/Canada	I:1002 Vol. 77
26 Aug.	Manila	Treaty of friendship, consular services and establishment (Art. II)	Greece/Philippines	I:3097 Vol. 225
16 Sep.	Brussels	Commercial agreement (Art. 7)	Belgo-Luxembourg Economic Union/Mexico	I:2523 Vol. 188
13 Dec.	London	Trade agreement (Art. 8)	United Kingdom/Norway	I:1439 Vol. 106
1951				
2 Feb.	Paris	Treaty of cession of the territory of the Free Town of Chandernagore (Art. XI)	India/France	I:2744 Vol. 203
22 Feb.	Oslo	Consular convention (Art. 34)	United Kingdom/Norway	I:4713 Vol. 326
8 May	London	Agreement for air services (Art. 10)	Belgium/United Kingdom	I:2079 Vol. 158
24 May	New Delhi	Agreement relating to air services (Art. XI)	India/Netherlands	I:1471 Vol. 108
18 June	Tehran	Agreement relating to air services (Art. 12)	Denmark/Iran	I:3602 Vol. 253
28 July	Geneva (opened for signature)	Convention relating to the status of refugees (Art. 38)	Multilateral	I:2545 Vol. 189
3 Aug.	Athens	Treaty of friendship, commerce and navigation (Art. XXVI)	Greece/United States	I:3080 Vol. 224
23 Aug.	Washington	Treaty of friendship, commerce and navigation (Art. XXIV)	Israel/United States	I:2679 Vol. 219
7 Sep.	Addis Ababa	Treaty of amity and economic relations (Art. XVII)	United States/Ethiopia	I:2785 Vol. 206

1951 (cont.)	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
8 Sep.	San Francisco	Treaty of peace with Japan (Art. 22)	Multilateral	I 1832 Vol. 136
25 Sep.	Canberra	Agreement relating to air services (Art. VIII)	Netherlands Australia	I 1713 Vol. 128
1 Oct.	Copenhagen	Treaty of friendship, commerce and navigation (Art. XXIV)	United States Denmark	I 6056 Vol. 421
31 Dec.	Paris	Consular convention (Art. 49)	France United Kingdom	I 4744 Vol. 330
1952				
14 Mar.	Stockholm	Consular convention (Art. 34)	Sweden United Kingdom	I 2731 Vol. 202
9 May	Tel Aviv	Agreement for economic assistance (Art. VIII)	United States Israel	I 2326 Vol. 177
14 June	Cairo	Agreement relating to air services (Art. XIV)	Australia Egypt	I 2260 Vol. 173
11 July	Manila	Treaty of friendship (Art. II)	India Philippines	I 2741 Vol. 203
17 July	Karachi	Agreement relating to air services (Art. XI)	Pakistan Netherlands	I 1980 Vol. 150
29 Aug.	Cairo	Agreement relating to air services (Art. XI)	Ethiopia Pakistan	I 1979 Vol. 150
6 Sep.	Geneva	Universal copyright convention (Art. XV)	Multilateral	I 2937 Vol. 216
1953				
9 Jan.		Treaty of permanent friendship (Art. VI)	Costa Rica Spain	
31 Mar.	New York (opened for signature)	Convention on the political rights of women (Art. IX)	Multilateral	I 2613 Vol. 193
31 Mar.	New York (opened for signature)	Convention on the international right of correction (Art. V)	Multilateral	I 6280 Vol. 435
2 Apr.	Tokyo	Treaty of friendship, commerce and navigation (Art. XXIV)	United States Japan	I 2788 Vol. 206
17 Apr.	Athens	Consular convention (Art. 3[illegible])	Greece United Kingdom	I 2582 Vol. 191
27 Apr.	Bangkok	Agreement relating to air services (Art. 10)	Thailand Philippines	I 2274 Vol. 174
23 June	New York (opened for signature)	Protocol for limiting and regulating cultivation of poppy plant, production of, international and wholesale trade in, and use of opium (Art. 15)	Multilateral	I 6555 Vol. 456
1 July	Paris (opened for signature)	Convention for the establishment of a European Organization for Nuclear Research (Art. XI)	Multilateral	I 2701 Vol. 200

1953 (cont.)	Place	Title and Clause	Contracting Parties	Treaty Series
14 Sep.	Colombo	Agreement for air services (Art. 11)	Netherlands-Ceylon	I: 2609 Vol. 193
24 Sep.	Helsinki	Agreement concerning a supplement to the convention of 30 January 1926 for the pacific settlement of disputes	Finland-Denmark	I: 2532 Vol. 189
26 Sep.	Madrid	Economic aids agreement (Art. IX)	Spain-United States	I: 2802 Vol. 207
19 Oct.	Venice	Constitution of the Intergovernmental Committee for European Migration (Art. 30)	Multilateral	I: 2807 Vol. 207
7 Dec.[1]	New York	Slavery convention signed at Geneva on 25 Sep. 1926, as amended (Art. 8)	Multilateral	I: 2861 Vol. 212
29 Dec.	Beirut	Agreement for air services (Art. 10)	Belgium-Lebanon	I: 2972 Vol. 219
1954				
16 Feb.	Paris	Convention on conditions of residence and navigation (Art. 17)	Sweden-France	I: 3141 Vol. 228
3 Mar.	Bangkok	Treaty of friendship (Art. VI)	Thailand-Indonesia	I: 2901 Vol. 213
20 Mar.	Mexico City	Consular convention (Art. 36)	United Kingdom-Mexico	I: 4758 Vol. 331
15 Apr.	Beirut	Agreement relating to air services (Art. XIII)	Yugoslavia-Lebanon	I: 8715 Vol. 602
12 May	London (opened for signature)	International convention for the prevention of pollution of the sea by oil (Art. XIII)	Multilateral	I: 4714 Vol. 327
1 June	Rome	Consular convention (Art. 37)	United Kingdom-Italy	I: 5798 Vol. 403
28 Sep.	New York	Convention relating to the status of stateless persons (Art. 34)	Multilateral	I: 5158 Vol. 360
13 Oct.	Paris (opened for signature)	International convention on the standardization of methods of analysing and appreciating wines (Art. 6)	Multilateral	I: 10416 Vol. 724
23 Oct.[2]	Paris	Treaty for collaboration in economic, social and cultural matters and for collective self-defence, signed at Brussels on 17 March 1948, as amended (Art. X)	Belgium, France, Luxembourg, Netherlands, United Kingdom, Fed. Rep. of Germany, Italy	I: 304 Vols. 19 and 211

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[1] The date and the place given here are those at which the amending protocol was opened for signature.

[2] The date and the place given here are those of the signature of the protocol modifying and completing the Treaty, by which Article VIII of the Treaty became Article X.

1954 (cont.)	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
29 Oct.	Washington	Treaty of friendship, commerce and navigation (Art. XXVII)	United States-Fed. Rep. of Germany	I : 3943 Vol. 273
5 Nov.	Rangoon	Treaty of peace (Art. IX)	Burma-Japan	I : 3542 Vol. 251
24 Nov.	Rio de Janeiro	Agreement concerning conciliation and judicial settlement (Arts. 16-22)	Italy-Brazil	I : 4146 Vol. 284
1 Dec.[1]	Paris	Agreement concerning the International Institute of Refrigeration, replacing the convention of 21 June 1920 (Art. XXXIII)	Multilateral	I : 11933 Vol. 826
14 Dec.	Quito	Air transport agreement (Art. VIII)	Netherlands-Ecuador	I : 3251 Vol. 232
1955				
31 Jan.	Manila	Agreement for air services (Art. 11)	Philippines-United Kingdom	I : 2963 Vol. 226
5 Mar.	Paris	Consular convention (Art. 44)	Sweden-France	I : 6130 Vol. 427
10 Aug.	Tripoli	Treaty of friendship and good neighbourliness (Art. 8)	France-Libya	
15 Aug.	Tehran	Treaty of amity, economic relations and consular rights (Art. XXI)	United States-Iran	I : 4132 Vol. 284
17 Sep.	Lugano	Convention concerning the regulation of Lake Lugano (Art. XI)	Italy-Switzerland	I : 4257 Vol. 291
20 Oct.	Berne	Additional protocol to the convention concerning the constitution of "Eurofima" (Art. 14)	Multilateral	I : 5425 Vol. 378
21 Oct.	Beirut	Air transport agreement (Art. 11)	Denmark-Lebanon	I : 3462 Vol. 248
13 Dec.	Paris	European convention on establishment (Art. 31)	Multilateral	I : 7660 Vol. 529
1956				
27 Mar.	The Hague	Treaty of friendship, commerce and navigation (Art. XXV)	Netherlands-United States	I : 4134 Vol. 285
30 Apr.	Paris	Agreement on commercial rights of non-scheduled air services in Europe (Art. 4)	Multilateral	I : 4494 Vol. 310
19 May	Geneva (opened for signature)	Convention on the contract for the international carriage of goods by road (Art. 47)	Multilateral	I : 5742 Vol. 399
20 June	New York (opened for signature)	Convention on the recovery abroad of maintenance (Art. 16)	Multilateral	I : 3850 Vol. 268

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[1] The date and place given here are those of the signature of the revised Convention.

1956 Date	Place	Title and Clause	Contracting Parties	Treaty Series
30 July	Bonn	Consular convention (Art. 41)	United Kingdom–Fed. Rep. of Germany	I-4740 Vol. 330
30 Aug.	Manila	Treaty of friendship (Art. 2)	Philippines–Switzerland	I-4264 Vol. 293
7 Sep.	Geneva	Supplementary convention on the abolition of slavery, the slave trade, and institutions and practices similar to slavery (Art. 10)	Multilateral	I-3822 Vol. 266
28 Nov.	Seoul	Treaty of friendship, commerce and navigation (Art. XXIV)	United States–Rep. of Korea	I-4367 Vol. 302
13 Dec.	Athens	Convention on judicial settlement	Greece–Sweden	I-4233 Vol. 299
1957				
20 Feb.	New York (opened for signature)	Convention on the nationality of married women (Art. 10)	Multilateral	I-4468 Vol. 309
28 Feb.	Tokyo	Treaty of commerce and navigation (Art. XVIII, para. 2)	Norway–Japan	I-4054 Vol. 280
24 Apr.	Cairo	Declaration on the Suez Canal and the arrangements for its operation (para. 9)	Egypt[1]	I-3821 Vol. 265
29 Apr.	Strasbourg (opened for signature)	European convention for the peaceful settlement of disputes	Multilateral	I-4646 Vol. 320
27 June	Kabul	Agreement relating to air services (Art. XI)	Pakistan–Afghanistan	I-4717 Vol. 327
23 Nov.	The Hague	Agreement relating to refugee seamen (Art. 14)	Multilateral	I-7384 Vol. 506
1958				
20 Jan.	Djakarta	Treaty of peace (Art. 6)	Japan–Indonesia	I-4688 Vol. 324
3 Feb.	The Hague	Treaty instituting the Benelux Economic Union (Art. 50)	Belgium, Luxembourg, Netherlands	I-5471 Vol. 381
5 Mar.	Stockholm	Agreement relating to air services (Art. XI)	Norway–Pakistan	I-4799 Vol. 334
5 Mar.	Stockholm	Agreement relating to air services (Art. XI)	Sweden–Pakistan	I-5656 Vol. 393
10 Apr.	Copenhagen	Agreement relating to air services (Art. XI)	Denmark–Pakistan	I-4353 Vol. 302
14 Apr.	Tehran	Agreement concerning air transport (Art. 13)	Belgium–Iran	I-5477 Vol. 381

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[1] See Sec. II, p. 125, above.

1958 (cont.)	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
29 Apr.	Geneva (opened for signature)	Optional protocol of signature concerning the compulsory settlement of disputes[1]	Multilateral	I:6466 Vol. 450
7 June	Karachi	Agreement relating to air services (Art. XI)	Pakistan/Portugal	I:4645 Vol. 320
4 July	Karachi	Agreement relating to air services (Art. XI)	Belgium/Pakistan	I:5569 Vol. 387
21 July	Vienna	Agreement relating to air services (Art. XI)	Austria/Afghanistan	I:9236 Vol. 645
28 Nov.	Monrovia	Agreement for the establishment and operation of air services (Art. 9)	Liberia/Netherlands	I:5651 Vol. 393
1959				
30 Jan.	Tegucigalpa	Agreement on commerce (Art. XII)	Belgium, Luxembourg, Netherlands/Honduras	I:9234 Vol. 645
16 July	Rome	Agreement relating to air services (Art. XI)	India/Italy	I:6714 Vol. 464
12 Nov.	Washington	Treaty of friendship and commerce (Art. XXIII)	United States/Pakistan	I:5816 Vol. 404
19 Nov.	Rome	Convention placing the International Poplar Commission within the framework of FAO (Art. XV)	Multilateral	I:5902 Vol. 410
25 Nov.	Paris	Convention of establishment (Art. XVI)	United States/France	I:5764 Vol. 401
25 Nov.	Bonn	Treaty for the promotion and protection of investments (Art. 11)	Pakistan/Fed. Rep. of Germany	I:6575 Vol. 457
1 Dec.	Washington	Antarctic treaty (Art. XI)	Multilateral	I:5778 Vol. 402
9 Dec.	Monrovia	Agreement relating to air services (Art. VIII)	Sweden/Liberia	I:6716 Vol. 464
1960				
13 Feb.[2]	Beirut	Agreement for air transport of 24 Jan. 1949, as amended (Art. 9)	Italy/Lebanon	I:3223 Vol. 497
9 Mar.	Conakry	Air transport agreement (Art. 9)	Netherlands/Guinea	I:5646 Vol. 392
15 Mar.	Geneva	Convention relating to the unification of certain rules concerning collisions in inland navigation (Art. 14)	Multilateral	I:8310 Vol. 572
24 Mar.	Berne	Agreement concerning air services (Art. 9)	Belgium/Switzerland	I:5996 Vol. 416

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[1] This Protocol relates to disputes concerning the Geneva Conventions on the Law of the Sea of 29 April 1958.

[2] The date given here is the date of signature of the amending protocol.

1960 (cont.)	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
8 Apr.	The Hague	Treaty concerning arrangements for co-operation in the Ems estuary (Art. 46)	Netherlands Fed. Rep. of Germany	I:7404 Vol. 509
8 Apr.	The Hague	Agreement to accept the compulsory jurisdiction of the International Court of Justice in disputes concerning the interpretation or application of the revised convention on Rhine navigation, 1868	Netherlands Fed. Rep. of Germany	I:7404 Vol. 509
24 June	Vienna	Consular convention (Art. 45)	United Kingdom Austria	I:7327 Vol. 502
19 Oct.	Amman	Agreement relating to air services (Art. 9)	Belgium/Jordan	I:6959 Vol. 479
9 Dec.	Tokyo	Treaty of amity, commerce and navigation (Art. XIII, para. 2)	Japan Philippines	I:4703 Vol. 1001
14 Dec.	Paris	Convention against discrimination in education (Art. 8)	Multilateral	I:6193 Vol. 429
14 Dec.[1]	New Delhi	Agreement of 11 July 1949 relating to air services, as amended (Art. X)	India/Australia	I:552 Vols. 35 and 425
18 Dec.	Tokyo	Treaty of friendship and commerce (Art. XIII)	Pakistan/Japan	I:6093 Vol. 423
1961				
21 Feb.	Brussels	Treaty of friendship, establishment and navigation (Art. 19)	Belgium United States	I:6967 Vol. 480
8 Mar.	Brussels	Consular convention (Art. 43)	Belgium United Kingdom	I:7554 Vol. 523
11 Mar.	Reykjavik	Exchange of notes constituting an agreement settling the fisheries dispute (para. 4)	Iceland United Kingdom	I:5710 Vol. 397
30 Mar.	New York	Single convention on narcotic drugs (Art. 48)	Multilateral	I:7515 Vol. 520
3 Apr.	Saigon	Treaty of amity and economic relations (Art. XIV)	United States Republic of Viet Nam	I:6106 Vol. 424
18 Apr.	Vienna	Optional protocol to the Vienna convention on diplomatic relations concerning the compulsory settlement of disputes	Multilateral	I:7312 Vol. 500
30 May	Madrid	Consular convention (Art. 53)	United Kingdom Spain	I:8198 Vol. 562
17 June	Conakry	Air transport agreement (Art. 9)	Sweden/Guinea	I:6729 Vol. 465

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[1] The date given here is that of the exchange of notes which modified the Agreement and by which Article XI became Article X.

1961 (*cont.*)	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
19 July	Reykjavik	Exchange of notes constituting an agreement concerning the fishery zone round Iceland (para. 5)	Iceland/Fed. Rep. of Germany	I:5877 Vol. 409
27 July	Beirut	Agreement for the establishment and operation of air services (Art. XII)	Lebanon/Liberia	I:11304 Vol. 794
24 Aug.	Amman	Agreement relating to air services (Art. 9)	Netherlands/Jordan	I:6733 Vol. 466
30 Aug.	New York	Convention on the reduction of statelessness (Art. 14)	Multilateral	I:14458 Vol. 989
31 Aug.	Monrovia	Agreement relating to air services (Art. XII)	Switzerland/Liberia	I:8160 Vol. 559
26 Oct.	Rome	International convention for the protection of performers, producers of phonograms and broadcasting organizations (Art. 30)	Multilateral	I:7247 Vol. 496
23 Nov.[1]	Rome	Constitution of the International Rice Commission, adopted at Washington 15/29 Nov. 1948, as amended (Art. XI)	Multilateral	I:1613 Vol. 418
23 Nov.[1]	Rome	Agreement for the establishment of Indo-Pacific Fisheries Council, adopted at Washington 15/29 Nov. 1948, as amended (Art. III)	Multilateral	I:1615 Vol. 418
1962				
23 Feb.	Luxembourg	Treaty of friendship, establishment and navigation (Art. XVII)	United States/Luxembourg	I:6868 Vol. 474
19 Mar.	Evian	*cf.* 1962, 3 July		
21 June	Paris	Air transport agreement (Art. 9)	Norway/Guinea	I:6738 Vol. 466
27 June	Copenhagen	Consular convention (Art. 36)	United Kingdom/Denmark	I:8197 Vol. 562
29 June	Bonn	Agreement relating to air services (Art. VIII)	Norway/Liberia	I:6739 Vol. 466
3 July[2]	Paris and Rocher-Noir	Exchange of letters and declarations adopted on 19 March 1962 at the close of the Evian talks, constituting an agreement (declaration of principles relating to the settlement of disputes)	France/Algeria	I:7395 Vol. 507

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[1] The date and the place given here are those on which the Conference of the Food and Agriculture Organization of the United Nations approved the amendments to the instrument.

[2] The date and the places given here are those of the exchange of letters.

1962 (*cont.*)	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
14 Nov.	London	Treaty of commerce, establishment and navigation (Art. 31)	United Kingdom/Japan	I:6934 Vol. 478
10 Dec.	New York (opened for signature)	Convention on consent to marriage, minimum age for marriage and registration of marriages (Art. 8)	Multilateral	I:7525 Vol. 521
1963				
8 Jan.	Seoul	Consular convention (Art. 16)	United States/Republic of Korea	I:7211 Vol. 493
24 Apr.	Vienna	Optional protocol to the Vienna convention on consular relatons concerning the compulsory settlement of disputes	Multilateral	I:8640 Vol. 596
13 Aug.	Asunción	Agreement on trade and navigation (Art. XVI)	Belgium, Luxembourg, Netherlands/Paraguay	I:8572 Vol. 592
14 Sep.	Tokyo	Convention on offences and certain other acts committed on board aircraft (Art. 24)	Multilateral	I:10106 Vol. 704
26 Oct.	Niamey	Act regarding navigation and economic co-operation between the States of the Niger Basin (Art. 7)	Multilateral	I:8506 Vol. 587
31 Oct.	Paris (opened for signature)	Protocol on privileges and immunities of the European Space Research Organization (Art. 29)	Multilateral	I:11473 Vol. 805
3 Dec.[1]	Rome	Agreement for the establishment of a General Fisheries Council for the Mediterranean, drawn up at Rome on 24 Sep 1949, as amended (Art. XIII)	Multilateral	I:1691 Vol. 490
3 Dec.	Rome	Agreement for the establishment of a Commission for Controlling the Desert Locust in the Eastern Region of Its Distribution Area in South-West Asia (Art. XVII)	Multilateral	I:7663 Vol. 529
1964				
4 Feb.	Karachi	Agreement relating to scheduled air services (Art. XII, para. B, ii)	Pakistan/Lebanon	I:8863 Vol. 614
4 May	Tokyo	Consular convention (Art. 39)	United Kingdom/Japan	I:8179 Vol. 561

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[1] The date and the place given here are those on which the Conference of the Food and Agriculture Organization of the United Nations approved the amendments to the Agreement.

1964 (cont.)	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
19 Sep.	Beirut	Agreement relating to air services (Art. XI)	India/Lebanon	I:11820 Vol. 825
1965				
25 Jan.	Geneva	Convention on the registration of inland navigation vessels (Art. 20)	Multilateral	I:21114 Vol. 1281
18 Mar.	Washington (opened for signature)	Convention on the settlement of investment disputes between States and nationals of other States (Art. 64)	Multilateral	I:8359 Vol. 575
21 Apr.	Belgrade	Consular convention (Art. 45)	United Kingdom/ Yugoslavia	I:8620 Vol. 595
2 July	Rome	Agreement for establishment of a commission for controlling the desert locust in the Near East (Art. XVI)	Multilateral	I:8575 Vol. 592
7 July	London	Treaty for conciliation, judicial settlement and arbitration (Art. 14)	United Kingdom/ Switzerland	I:8765 Vol. 605
7 July	Taif	Agreement on the partition of the neutral zone (Art. 22)	Saudi Arabia/ Kuwait	I:3054 Vol. 1750
1966				
8 Feb.	Lome	Treaty of amity and economic relations (Art. XIV)	United States/ Togo	I:9677 Vol. 680
15 Feb.	Geneva	Convention on the measurement of inland navigation vessels (Art. 14)	Multilateral	I:13899 Vol. 964
7 Mar.	New York (opened for signature)	International convention on the elimination of all forms of racial discrimination (Art. 22)	Multilateral	I:9464 Vol. 660
1967				
31 Jan.	New York	Protocol relating to the status of refugees (Art. IV)	Multilateral	I:8791 Vol. 606
14 Feb.	Mexico City	Treaty for the prohibition of nuclear weapons in Latin America (Art. 24)	Multilateral	I:9068 Vol. 634
14 Mar.	Manila	Trade agreement (Art. IX)	Belgium, Luxembourg, Netherlands/ Philippines	I:12382 Vol. 863
24 May	Kabul	Agreement relating to air services (Art. IX)	Denmark/ Afghanistan	I:9951 Vol. 695
1 June	London	Convention on conduct of fishing operations in the North Atlantic (Art. 13)	Multilateral	I:15849 Vol. 1051
10 July	Paris	International agreement on the procedure for the establishment of tariffs for scheduled air services (Art. 4)	Multilateral	I:9971 Vol. 696

1967 *(cont.)*	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
14 July[1]	Stockholm	Convention for the protection of industrial property signed at Paris on 20 March 1883, as revised (Art. 28)	Multilateral	I:11851 Vol. 828
1968				
23 Feb.	Brussels	Protocol amending the international convention for the unification of certain rules of law relating to bills of lading, signed at Brussels on 25 August 1925 (Art. 8)	Multilateral	I:23643 Vol. 1412
8 Nov.	Vienna	Convention on road traffic (Art. 52)	Multilateral	I:15705 Vol. 1042
8 Nov.	Vienna	Convention on road signs and signals (Art. 44)	Multilateral	I:16743 Vol. 1091
1969				
13 Feb.	Geneva	Agreement establishing the European Molecular Biology Conference (Art. VIII)	Multilateral	I:10462 Vol. 727
23 May	Vienna	Convention on the law of treaties (Art. 66)	Multilateral	I:18232 Vol. 1155
25 July	Boston	International health regulations (Art. 106)	Multilateral	I:10921 Vol. 764
2 Sep.	Washington	Consular convention (Art. 46)	Belgium/ United States	I:13178 Vol. 924
8 Sep.	Mexico City	Convention on the privileges and immunities of the Agency for the Prohibition of Nuclear Weapons in Latin America (Art. 7)	Multilateral	I:16545
30 Dec.	Belgrade	Consular convention (Art. 46)	Belgium/ Yugoslavia	I:13441 Vol. 943
1970				
23 Apr.	Brussels	International convention on travel contracts (Art. 32, para. 2)	Multilateral	I:21051 Vol. 1275
19 June	Washington	Treaty on patent co-operation (Art. 59)	Multilateral	I:18336 Vol. 1160
1 Dec.	Rome	Agreement for the establishment of a commission for controlling the desert locust in North-West Africa (Art. XVI)	Multilateral	I:11354 Vol. 797
16 Dec.	The Hague	Convention on the suppression of the unlawful seizure of aircraft (Art. 12, para. 1)	Multilateral	I:12325 Vol. 860
1971				
21 Feb.	Vienna	Convention on psychotropic substances (Art. 31)	Multilateral	I:14956 Vol. 1019

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[1] The date and the place given here are those of the signature of the revised Convention.

1971 *(cont.)*	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
14 July	Brussels	Treaty of commerce (Art. 11)	Belgium, Luxembourg, Netherlands/USSR	I:12656 Vol. 883
17 July	Accra	Agreement for the provision of a special loan to the Government of the Republic of Ghana to facilitate the payment of medium term commercial debts (Art. VII)	United Kingdom/Ghana	I:11467 Vol. 805
24 July[1]	Paris	Convention for the protection of literary and artistic works signed at Berne on 9 September 1886, as revised (Art. 33)	Multilateral	I:25986
24 July	Paris	Universal copyright convention, signed at Geneva on 6 September 1952, as revised (Art. XV)	Multilateral	I:13444 Vol. 943
23 Sep.	Montreal	Convention for the suppression of unlawful acts against the safety of civil aviation (Art. 14)	Multilateral	I:14118 Vol. 974
6 Oct.	Paris	Convention on the establishment of the International Institute for the Management of Technology (Art. 7)	Multilateral	I:14566 Vol. 995
1972				
28 Apr.	Ankara	Consular convention (Art. 58)	Belgium/Turkey	I:15142 Vol. 1029
16 May	Basle	European convention on State immunity (Art. 34)	Multilateral	I:25699
1973				
10 May	Geneva	Agreement establishing the European Molecular Biology Laboratory (Art. XII)	Multilateral	I:13668 Vol. 954
12 June	The Hague	Protocol relating to refugee seamen (Art. II)	Multilateral	I:13928 Vol. 965
22 June	Rome	Agreement for the establishment of a Regional Animal Production and Health Commission for Asia, the Far East and the South-West Pacific (Art. XX)	Multilateral	I:14604 Vol. 997
5 Oct.	Munich	Convention on the grant of European patents (Art. 173)	Multilateral	I:16208 Vol. 1065
19 Nov.	Montevideo	Treaty of the La Plata River and its maritime limits (Art. 87)	Uruguay/Argentina	I:21424 Vol. 1295

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[1] The date and the place given here are those of the signature of the revised Convention.

1973 *(cont.)*	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
30 Nov.	New York	International convention on the suppression and punishment of the crime of *apartheid* (Art. XII)	Multilateral	I:14861 Vol. 1015
14 Dec.	New York	Convention on the prevention and punishment of crimes against internationally protected persons, including diplomatic agents (Art. 13)	Multilateral	I:15410 Vol. 1035
1974				
19 Feb.	Madrid	Agreement on the delimitation of the continental shelf (Art. 3, para. 2)	Italy/Spain	I:17429 Vol. 1120
22 Mar.	Helsinki	Convention on the protection of the marine environment of the Baltic Sea area (Art. 18, para. 2)	Multilateral	I:18338 Vol. 1161
16 May	Khartoum	Agreement relating to the joint exploitation of the natural resources of the sea-bed and subsoil of the Red Sea in the common zone (Art. XVI)	Sudan Saudi Arabia	I:13605 Vol. 952
1975				
26 Feb.	Salto	Treaty concerning the status of the river Uruguay (Art. 60)	Uruguay/ Argentina	I:21425 Vol. 1295
8 Aug.	New York	Single convention on narcotic drugs, 1961, as amended (Art. 48)	Multilateral	I:14152 Vol. 1976
1977				
24 May	Athens	Agreement on the delimitation of the respective continental shelves of the two States (Art. IV)	Greece/Italy	I:21048 Vol. 1275
1978				
5 July	Geneva	Protocol to the convention on the contract for the international carriage of goods by road (CMR) (Art. 8)	Multilateral	I:19487 Vol. 1208
1979				
30 Mar.	Geneva	International agreement on olive oil (Art. 14, para. 2)	Multilateral	I:19674 Vol. 1219
10 May	Manila	Treaty of amity, commerce and navigation (Art. XV, para. 2)	Japan/Philippines	I:20979 Vol. 1272
8 Apr.	Vienna	Constitution of the United Nations Industrial Development Organization (UNIDO) (Art. 22, para. 1 *(b)*)	Multilateral	I:23432 Vol. 1401
17 Dec.	New York	International convention against the taking of hostages (Art. 16, para. 1)	Multilateral	I:21931 Vol. 1316

1979 *(cont.)*	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
18 Dec.	New York	Convention on the elimination of all forms of discrimination against women (Art.29)	Multilateral	I: 20378 Vol. 1249
1980				
20 May	Canberra	Convention on the conservation of Antarctic marine living resources	Multilateral	I: 22301 Vol. 1329
30 Oct.	Lima	General peace treaty (Arts. 31-36 and 39)	El Salvador/ Honduras	I: 21856 Vol. 1310
1981				
23 Jan.	Cotonou	Agreement concerning technical co-operation (Art. XI)	Switzerland/Benin	I: 19804 Vol. 1226
1984				
10 Dec.	New York	Convention against torture and other cruel, inhuman or degrading treatment or punishment (Art. 30, para. 1)	Multilateral	I: 24841 Vol. 1465
1985				
22 Mar.	Vienna	Vienna convention for the protection of the ozone layer (Art. 11)	Multilateral	I: 26164 Vol. 1513
8 Nov.	Geneva	Agreement concerning the establishment of a branch office of the Organization in Madrid (Art. 8, para. 2)	International Labour Organization/Spain	I: 24015 Vol. 1422
10 Dec.	New York	International convention against *apartheid* in sports (Art. 19)	Multilateral	I: 25822 Vol. 1500
1986				
21 Mar.	Vienna	Vienna convention on the law of treaties between States and international organizations or between international organizations (Art. 66, para. 2)	Multilateral	
1988				
10 Mar.	Rome	Convention for the suppression of unlawful acts against the safety of maritime navigation (Art. 18, para. 1)	Multilateral	I: 29004 Vol. 1678
20 Dec.	Vienna	United Nations convention against illicit traffic in narcotic drugs and psychotropic substances (Art. 32)	Multilateral	I: 27627 Vol. 1582
1989				
19 Oct.	Berne	Treaty on extradition (Art. 17, para. 2)	Philippines/ Switzerland	I: 34124 Vol. 1994

1989 *(cont.)*	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
4 Dec.	New York	International convention against the recruitment, use, financing and training of mercenaries (Art. 17, para. 1)	Multilateral	I: 37789
1990				
18 Dec.	New York	International Convention on the protection of the rights of all migrant workers and members of their families (Art. 92, para. 1)	Multilateral	
1991				
25 Feb.	Espoo	Convention on environmental impact assessment in a transboundary context (Art. 15, para. 2)	Multilateral	I: 34028 Vol. 1989
1 Mar.	Montreal	Convention on the marking of plastic explosives for the purpose of detection (Art. XI, para. 1)	Multilateral	
25 Nov.	Berne	Treaty on mutual assistance in criminal matters (Art. 21, para. 3)	Australia Switzerland	I: 31588 Vol. 1856
1992				
17 March	Helsinki	Convention on the protection and use of transboundary watercourses and international lakes (Art. 22, para. 1)	Multilateral	I: 33207 Vol. 1936
9 May	New York	United Nations framework convention on climate change (Art. 14, para. 2)	Multilateral	I: 30822 Vol. 1771
5 June	Rio de Janeiro	Convention on biological diversity (Art. 27, para. 3)	Multilateral	I: 30619 Vol. 1760
1993				
10 May	Canberra	Convention for the conservation of southern bluefin tuna (Art. 16, para. 2)	Multilateral	I: 31155 Vol. 1819
14 Oct.	Dakar	Agreement on management and co-operation (Art. 9)	Senegal/ Guinea-Bissau	I: 32434 Vol. 1903
1994				
14 June	Oslo	Protocol to the 1979 Convention on long-range transboundary air pollution on further reduction of sulphur emissions (Art. 9)	Multilateral	

1996	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
*10 Sep.	New York	Comprehensive nuclear test ban treaty (Art. 6, paras. 2 and 3)	Multilateral	
*28 Oct.	New York	Agreement on the establishment of the International Vaccine Institute (Art. 7, paras. 2 and 3)	Multilateral	
1997				
*15 Dec.	New York	International convention for the suppression of terrorist bombings (Art. 20, para. 1)	Multilateral	
1998				
18 June	Tampere	Convention on the provision of telecommunication resources for disaster mitigation and relief operations (Art. 11, para. 3 *(b)*)	Multilateral	
24 June	Aarhus	Protocol to the 1979 convention on long-range transboundary air pollution on persistent organic pollutants (Art. 12, para. 2 *(a)*)	Multilateral	
24 June	Aarhus	Protocol to the 1979 convention on long-range transboundary air pollution on heavy metals (Art. 11, para. 2 *(a)*)	Multilateral	
25 June	Aarhus	Convention on access to information, public participation in decision-making and access to justice in environmental matters (Art. 16, para. 2 *(a)*)	Multilateral	I:37770 Vol. 2161
17 July	Rome	Statute of the International Criminal Court	Multilateral	I:38544 Vol. 2187
10 Sep.	Rotterdam	Convention on the prior informed consent procedure for certain hazardous chemicals and pesticides in international trade (Art. 20, para. 2 *(b)*)	Multilateral	I:39973
1999				
17 June	London	Protocol on water and health to the 1992 convention on the protection and use of transboundary watercourses and international lakes (Art. 20, para. 2 *(b)*)	Multilateral	
*30 Nov.	Göteborg	Protocol to the 1979 convention on long-range transboundary air pollution to abate acidification, eutrophication and ground-level ozone (Art. 11, paras. 2 and 4)	Multilateral	

1999 *(cont.)*	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
9 Dec.	New York	International convention for the suppression of the financing of terrorism (Art. 24, para. 1)	Multilateral	I-38349 Vol. 2178
2000				
12 Dec.	Palermo	Protocol against the smuggling of migrants by land, sea and air, supplementing the United Nations convention against transnational organized crime (Art. 20, para. 2)	Multilateral	
12 Dec.	Palermo	Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the United Nations convention against transnational organized crime (Art. 15, para. 2)	Multilateral	
12 Dec.	Palermo	United Nations convention against transnational organized crime (Art. 35, para. 2)	Multilateral	
2001				
22 May	Stockholm	Convention on persistent organic pollutants (Art. 16, para. 2)	Multilateral	I-40214
31 May	New York	Protocol against the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, supplementing the United Nations convention against transnational organized crime (Art. 16, para. 2)	Multilateral	
2003				
*21 May	Kiev	Protocol on civil liability and compensation for damage caused by the transboundary effects of industrial accidents on transboundary waters to the 1992 convention on the protection and use of transboundary watercourses and international lakes and to the 1992 convention on the transboundary effects of industrial accidents (Art. 26)	Multilateral	

2003 (cont.)	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
*21 May	Kiev	Protocol on pollutant release and transfer registers to the convention on access to information, public participation in decision-making and access to justice in environmental matters (Art. 23)	Multilateral	
*31 Oct.	Merida	United Nations convention against corruption (Art. 66, para. 2)	Multilateral	

CHAPTER V

FUNCTIONING AND PRACTICE OF THE COURT

In matters concerning its administration and procedure, the International Court of Justice applies Articles 21, 22 and 39-68 of its Statute and Articles 12, 19-31 and 38-109 of its Rules.

I. Seat

The seat of the Court is established at The Hague (Netherlands); this however, does not prevent the Court from sitting and exercising its functions elsewhere whenever the Court considers it desirable to do so (Statute, Art. 22, para. 1; Rules, Art. 55).

The Court occupies, in the Peace Palace at The Hague, the premises formerly occupied by the *Permanent Court of International Justice* as well as a new wing built at the expense of the Netherlands Government and inaugurated in 1978. An extension of that new wing as well as a number of newly constructed offices on the third floor of the Peace Palace were inaugurated in 1997.

An agreement of 21 February 1946 between the United Nations and the Carnegie Foundation, which is responsible for the administration of the Peace Palace, determines the conditions under which the Court uses these premises. The agreement was approved by the General Assembly of the United Nations in resolution 84 (I) of 11 December 1946. It provides for the payment to the Carnegie Foundation of an annual contribution (see Chap. VIII, p. 374, below).

II. Administration

1. The Presidency and the Committees of the Court

The President shall preside at all meetings of the Court; he shall direct the work and supervise the administration of the Court (Rules, Art. 12)[1].

Decisions which have to be taken by the Court on administrative matters are prepared by a Budgetary and Administrative Committee composed of the President (chair), the Vice-President and five judges who are elected tri-annually (at present Judges Guillaume, Koroma, Vereshchetin, Kooijmans and Al-Khasawneh).

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[1] Occasionally the President is requested by third persons to undertake tasks outside the judicial work of the Court. These activities are described at the end of this chapter (pp. 206-207, below).

In 1967 the Court established a Committee on Relations. Its present members are Judges Parra-Aranguren (chair), Rezek, Al-Khasawneh and Owada. This committee is responsible for preparing plans and programmes with a view to the wider dissemination of information on the work of the Court and the maintenance of its relations with other United Nations organs, the specialized agencies, and international bodies and conferences concerned with the codification and progressive development of international law.

In 1970 the Court established a Library Committee (at present Judges Koroma (chair), Kooijmans, Rezek, Buergenthal and Tomka) to review the programme of acquisitions for the library of the Court and supervise the continuous modernization of its services.

In 1979 the Court constituted the Rules Committee as a standing body. Its members are at present Judges Higgins (chair), Buergenthal, Elaraby, Owada, Simma and Tomka.

In 1997 the Court established a Committee on Computerization, at present under the chairmanship of the Vice-President and open to all interested Members of the Court.

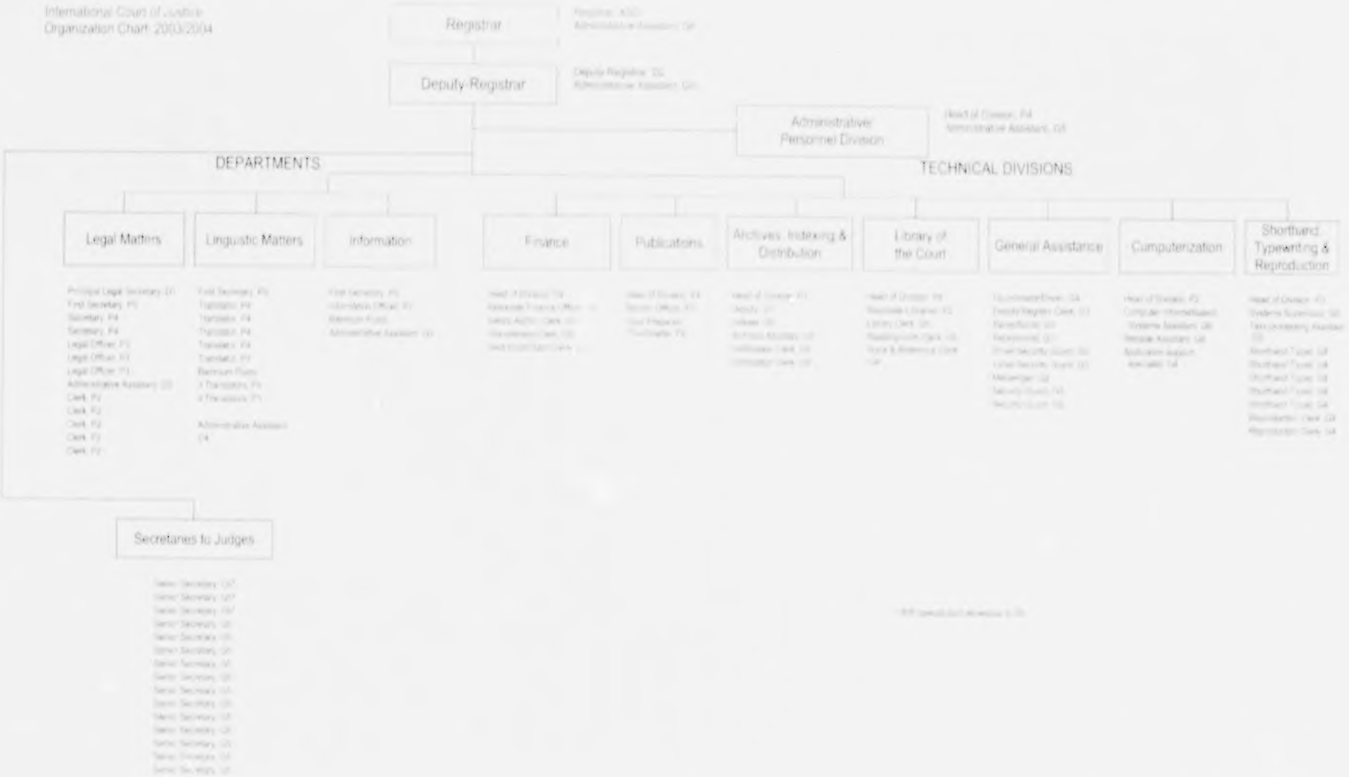
2. *The Registry*

The Registry is the administrative organ of the Court. Its role is defined by the Statute and the Rules (in particular Rules, Arts. 22-29). The organization of the Registry is prescribed by the Court on proposals submitted by the Registrar, and Instructions for the Registry are drawn up by the Registrar and approved by the Court (Rules, Art. 28, paras. 2 and 3). The instructions drawn up in October 1946 were amended in March 1947 and September 1949 (*I.C.J. Yearbook 1946-1947*, pp. 72-87; *I.C.J. Yearbook 1949-1950*, p. 24). In December 1997 the Court accepted virtually all recommendations of a Sub-Committee on Rationalization which it had created to examine the working methods in the Registry and to make proposals for their rationalization and improvement (cf. the Court's response to General Assembly resolution 52/161, reproduced in *I.C.J. Yearbook 1997-1998*, p. 275). Following the inspection on management and administration in the Registry of the Court, made in 1999 by the Joint Inspection Unit, the ensuing report was considered by the General Assembly on 14 June 2001 (cf. General Assembly resolution 55/257). An organization chart of the Registry appears on the page opposite.

(a) *The Registrar and the Deputy-Registrar*

The Court appoints its Registrar from among candidates proposed by Members of the Court; he is elected for a term of seven years and may be re-elected (Statute, Art. 21, para. 2; Rules, Art. 22). The Court also appoints a Deputy-Registrar, under the same conditions and in the same way as the Registrar (Rules, Art. 23).

International Court of Justice
Organization Chart 2003/2004


Registrar
Deputy-Registrar
Administrative/Personnel Division
DEPARTMENTS
TECHNICAL DIVISIONS
Legal Matters
Linguistic Matters
Information
Finance
Publications
Archives, Indexing & Distribution
Library of the Court
General Assistance
Computerization
Shorthand, Typewriting & Reproduction
Secretaries to Judges

The general functions of the Registrar are defined by the Rules of Court (Art. 26) and the Instructions for the Registry (Art. 1). He is the regular channel of communications to and from the Court, and in particular he effects all communications, notifications and transmissions of documents required by the Statute or by the Rules; he keeps a General List of all cases, entered and numbered in the order in which the documents instituting proceedings or requesting an advisory opinion are received in the Registry; he is present, in person or by his deputy, at meetings of the Court, and of the Chambers, and is responsible for the preparation of minutes of such meetings; he makes arrangements for such provision or verification of translations and interpretations into the Court's official languages (French and English) as the Court may require; he signs all judgments, advisory opinions and orders of the Court as well as the minutes; he is responsible for the administration of the Registry and for the work of all its departments and divisions, including the accounts and financial administration in accordance with the financial procedures of the United Nations; he assists in maintaining the Court's external relations, both with international organizations and States and in the fields of information and publications (official publications of the Court, press communiqués, etc.); finally, he has custody of the seals and stamps of the Court, of the archives of the Court, and of such other archives as may be entrusted to the Court (including the archives of the Nuremberg Tribunal).

The Deputy-Registrar assists the Registrar and acts as Registrar in the latter's absence; he has recently been entrusted with wider administrative responsibilities, including direct supervision of the Archives, Computerization and General Assistance Divisions.

The present Registrar is Mr. Philippe Couvreur, of Belgian nationality, who was elected on 10 February 2000 for a term of 7 years. Mr. Couvreur, who joined the Court in 1982 as special assistant to the Registrar and the Deputy-Registrar, had risen to the rank of Secretary, then First Secretary, in the Legal Department and had served as Principal Legal Secretary since 1995. He has lectured in public international law at various universities, including the Université Catholique de Louvain, and he is the author of a number of publications on the Court.

On 15 February 1994 the Court elected Mr. Jean-Jacques Arnaldez to the post of Deputy-Registrar for a term of 7 years, as from 19 February 1994. He was re-elected for a term of seven years on 19 February 2001. Mr. Arnaldez, who is of French nationality, was previously Legal Counsel in a Paris international law firm (1977-1982) and Counsel in the International Court of Arbitration of the International Chamber of Commerce (ICC) in Paris (1982-1994).

Previous Registrars of the Court were E. Hambro (1946-1953), J. López-Oliván (1953-1960), J. Garnier-Coignet (1960-1966), S. Aquarone (1966-1980), S. Torres Bernárdez (1980-1986) and E. Valencia-Ospina (1987-2000). Previous Deputy-Registrars were J. Garnier-Coignet (1946-1960), S. Aquarone (1960-1966), W. Tait (1966-1976), A. Pillepich (1977-1984), E. Valencia-Ospina (1984-1987) and B. Noble (1987-1994).

(b) *Departments of the Registry*

The officials of the Registry are appointed by the Court on proposals submitted by the Registrar (Statute, Art. 21, para. 2; Rules, Art. 25). General Service staff, however, are appointed by the Registrar with the approval of the President. Short-term staff are appointed by the Registrar. (Rules, Art. 25; Staff Regulations for the Registry, Art. 5; Instructions for the Registry, Art. 4).

All officials of the Registry, whether permanent or temporary, must be proficient in English and French and those whose work involves linguistic responsibilities must have one of these languages as their first language.

The following table gives a list of officials employed by the Registry (both on a permanent basis and under fixed-term contracts) as at 31 July 2004.

	Date of assumption of duties	*Nationality*
Department of Legal Matters		
Principal Legal Secretary		
H. Thirlway	1 March 2003	British
First Secretary		
J.-P. Isselé	5 April 1988	French
Secretaries		
F. Ouguergouz	6 February 1995	Algerian
S. Punzhin	1 August 1997	Russian
Legal Officers		
C. Espaliú Berdud	19 June 2000	Spanish
Ms N. Wiles	17 July 2000	British
S. Villalpando	16 September 2002	Argentinian
Law Clerks		
Ms N. Bayat	15 May 2002	South African
Ms Y. Takashiba	1 June 2002	Japanese
G. Etienne	3 June 2002	French
N. Burniat	1 June 2002	Belgian
Department of Linguistic Matters		
First Secretary		
A. Brouillet	13 June 1988	French
Translators/Interpreters		
T. Johnston	1 September 1998	British
E. Gassama	4 March 2002	Senegalese
P. Hilgert	29 August 2001	French
J. Scharfer	17 April 2000	American and French

Ms A. Lajoie	2 September 2002	Canadian
N. Ramade	1 May 2001	French
Ms N. Apfelbaum-Lubek	5 June 2001	French and Canadian
Ms V. Sorensen Ravnso	21 January 2002	French
Ms M. Vidil	1 July 2001	French
Ms L. Wagner	14 April 2003	French
J. Brannan	26 August 2002	British
D. Ulivi	1 February 2003	French

Department of Information

First Secretary

A. Th. Witteveen	15 July 1975	Dutch

Information Officers

Ms L. Blairon	1 October 1997	Belgian
B. Heim	1 February 2002	French

Publications Division

S. H. Herd Head of Division	1 August 1987	British
Ms F. Bouillé-Chiche Deputy Head of Division	5 August 2002	French
A. Baudat	1 November 2000	Swiss

Finance Division

M. Mendella Head of Division	1 April 1986	Canadian
Ms C. Sappore-Siaw Deputy Head of Division	1 January 1999	Gambian
C. Uriot	1 March 1981	Dutch
T. Komnenović	1 August 1973	Yugoslav
Ms S. Kablan-Tasan	1 August 2002	Turkish

Administrative/Personnel Division

E. Andronov Head of Division	15 October 2002	Russian

Documents Division/Library of the Court

Ms J. Rangel Librarian, Head of Division	1 January 2003	Brazilian
M. Schiethart Deputy Head of Division	1 January 1981	Dutch
Ms C. Fumé	23 July 2002	French
G. Vooijs	1 January 1981	Dutch
Ms A. Barkworth	19 August 2002	Canadian and Dutch

Archives, Indexing and Distribution Division

S. R. S. Bedi Head of Division	16 September 1985	Indian
M. Sow Deputy Head of Division	1 August 1985	Senegalese
Ms S. Arlen	1 May 2002	French

Indexing

Ms M. P. Castro Granja	4 June 2000	Spanish

Distribution

D. Ahanhanzo	1 July 2001	Beninese
B. J. van Veen	1 March 1982	Dutch

Administrative Assistants

Ms A.-M. Curvers	1 September 1996	Belgian
Ms D. Brouillet-Sourisseau	1 January 1990	French
Ms A. Hooft-Dupont	22 September 1997	Belgian
Ms A. Dumoulin	14 May 2001	French
Ms S. Burer	1 June 1999	Dutch
Ms M.-F. Teven	30 January 1995	French

Shorthand, Typewriting and Reproduction Division

Ms C. Blom-Rakoto Head of Division	5 September 1983	French and Malagasy
Ms H. E. Jeffares Deputy Head of Division	1 October 1993	Irish

Shorthand Typists

French-speaking

Ms B. Chassang	1 October 1999	French
Ms D. Marlhens	4 March 2002	French
Ms E. Rabilloud	13 May 2002	French
Ms M. Maniacky	1 September 2002	French
Ms R. Baquedano	6 January 2003	French
Ms B. Dalsbaek	1 April 2004	French

English-speaking

Ms L. Tanggahma	14 March 2001	Dutch

Reproduction

G. D'Olivo	1 December 1982	Italian and Dutch
E. van Heeswijk	17 August 1993	Dutch

Secretaries of Members of the Court

Ms M. Page Co-ordinator	1 January 1981	French
Ms W. Ch. Deelder	1 July 1982	Dutch

Ms M. Cleary-Cogan	16 January 1989	British
Ms J. E. van Hamel-Newall	1 November 1985	British
Ms J. Devisme	1 January 1986	French
Ms H. H. Muijen	1 April 1986	Dutch
Ms A. Rowland-Moore	1 January 1989	British
Ms M. Sullivan	1 January 1990	British
Ms Ch. L. Kamers	8 March 1993	Dutch
Ms D. Okandeji	8 September 1997	French
Ms C. Wainwright	1 January 1999	Australian
Ms I. Kieffer	25 June 2001	French
Ms S. van Beek	1 May 2002	American
Ms Y. Hoogenhout	1 September 2002	Australian and Dutch

Computerization Division

G. Auber Head of Division	1 July 2003	French
K. Coulibaly	8 April 2004	Ivorian
L. Ber	5 April 2004	Cambodian
Ms J. Blight	1 March 2004	Australian

General Assistance Division

I. J. van der Meer Co-ordinator	1 February 1979	Dutch
H. R. I. Castens Registry Clerk	1 June 1999	Dutch

Telephone Operators/Receptionists

Ms M. Buan	1 October 1991	Dutch
Ms J. Kanga	24 February 2003	Cameroonian

Security Guards

R. Pijl	1 January 1990	Dutch
J. J. Neüs	1 June 1999	Dutch

Messenger

D. Driessen	1 April 1982	Dutch

(c) *Staff Regulations for the Registry*

Article 28, paragraph 4, of the Rules of Court states:

> "The staff of the Registry shall be subject to Staff Regulations drawn up by the Registrar, so far as possible in conformity with the United Nations Staff Regulations and Staff Rules, and approved by the Court."

On 7 March 1979 the Court adopted new Staff Regulations for the Registry, which are reproduced in Chapter VI of the *I.C.J. Yearbook*

1978-1979 (pp. 127-131). In November 1987 these Staff Regulations were amended (see *I.C.J. Yearbook 1988-1989*, pp. 163-164), in July 1996, in April 1997 (see *I.C.J. Yearbook 1997-1998*, p. 265), in December 2000 and in September 2002.

Before 1979 staff members of the Registry had been subject to Staff Regulations adopted by the President and approved by the Court in March 1947 in accordance with Article 18, paragraph 2, of the 1946 Rules of Court; these Staff Regulations had been amended in February and March 1950 and in June 1951 (see *I.C.J. Yearbook 1946-1947*, pp. 66-71; *I.C.J. Yearbook 1949-1950*, pp. 23-24; *I.C.J. Yearbook 1950-1951*, pp. 25-27).

(d) *Privileges and immunities*

In the Netherlands, in accordance with the terms of an exchange of letters, dated 26 June 1946, between the President of the Court and the Minister for Foreign Affairs of the Netherlands, the Registrar is, in a general way, accorded the same treatment as heads of diplomatic missions accredited to Her Majesty the Queen of the Netherlands, and officials of the Registry are treated as officials of comparable rank attached to diplomatic missions at The Hague (*I.C.J. Acts and Documents No. 5*, pp. 201-207).

By resolution 90 (I) of 11 December 1946 (*ibid.*, pp. 207-211) the General Assembly of the United Nations recommended that, on journeys in connection with the exercise of his functions, the Registrar should enjoy all the privileges, immunities and facilities granted to diplomatic envoys and that the officials of the Registry should, in the same circumstances, enjoy such privileges, immunities and facilities for residence and travel as may be necessary for the independent exercise of their functions.

This resolution also contains a recommendation calling upon Members of the United Nations to recognize and accept the United Nations laissez-passer issued to the Registrar and officials of the Registry by the Court. Such laissez-passer have been issued since 1950. They are similar in form to those issued by the Secretary-General of the United Nations. They are signed by the President of the Court and by the Registrar.

3. *Relations with the Public*

(a) *Correspondence*

Article 26, paragraph 1 *(a)*, of the Rules of Court states that the Registrar shall "be the regular channel for communications to and from the Court".

Consequently, correspondence should be addressed to *The Registrar, International Court of Justice, Peace Palace, Carnegieplein 2, 2517 KJ The*

Hague, Netherlands (telegraphic address: INTERCOURT THE HAGUE; Telex: 32323; Telefax (3170) 364 99 28; E-mail addresses: webmaster@icj-cij.org (technical comments), information@icj-cij.org (requests for information and for documents) and mail@icj-cij.org (other requests and comments). It should be written in either English or French[1].

A special issue of postage stamps is used by the Netherlands postal administration for the franking of correspondence from the Court.

The Court's telephone number is (3170) 302 23 23.

(b) *Access to the Court's library and archives*

The library of the Court is separate from the library of the Peace Palace, which is situated in the same building but is administered by the Carnegie Foundation. The relations between the two libraries were the subject of an exchange of notes dated 29 and 30 July 1946 (*I.C.J. Yearbook 1946-1947*, pp. 98-99). The public has access to the Peace Palace Library, but the library of the Court is private.

The Court's library keeps the archives of the Nuremberg *International Military Tribunal*, as entrusted to the Court pursuant to a decision of that Tribunal dated 1 October 1946. These archives, which relate solely to the trial of the major war criminals tried in 1945-1946, may be consulted on written application to the Registrar.

Neither the archives of the Court itself nor those of the *Permanent Court of International Justice* are open to the public (Rules, Art. 26, para. 1 *(n)*).

(c) *Information*

Article 26, paragraph 1 *(k)* and *(m)*, of the Rules of Court provides that the Registrar shall "deal with enquiries concerning the Court and its work" and "ensure that information concerning the Court and its activities is made accessible to governments, the highest national courts of justice, professional and learned societies, legal faculties and schools of law, and public information media". For the purpose of carrying out this function, the Registrar is assisted by one of the First Secretaries.

The Registrar arranges as he considers necessary for the publication of information concerning the composition, jurisdiction and work of the Court, and the cases before the Court[2].

In order to increase the availability of Court documents and reduce communication costs, the Court decided to develop a website, which was launched on 25 September 1997 in both English and French. At the time of preparation of this *Yearbook*, it featured the full text of the Court's

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[1] It is not possible for the Registry to give legal advice or to enter into correspondence with private persons concerning any matter at issue between them and the authorities of their own or another country.

[2] These publications are distinct from the publications of the Court issued by the Registry; see below, Chap. VII, pp. 332-334.

Judgments and Orders since 1970 (since 1997, posted on the day they are delivered), and the Advisory Opinions it has given since 1990, summaries of past decisions, most of the relevant documents in pending cases (Application or Special Agreement and written and oral pleadings); unpublished pleadings available in electronic form for cases prior to 1970; all the publications of the Permanent Court of International Justice; press releases; some basic documents (United Nations Charter and the Statute and Rules of the Court); declarations recognizing as compulsory the jurisdiction of the Court and a list of treaties and other agreements relating to that jurisdiction; general information on the Court's history and procedure; and the biographies of the judges, as well as a catalogue of publications. The website can be visited at the following address: http://www.icj-cij.org.

In response to the exceptional interest in the case concerning the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* shown by the general public, civil society and the media worldwide, and in view of the Court's very limited seating space for members of the public and journalists at the Peace Palace in The Hague, the Court decided to provide video coverage of its hearings on the Internet. The public hearings were broadcast live and in full on the Court's official website with audio streaming in the Court's two official languages, English and French.

The following documentation, issued separately in English and in French, is available free of charge on application to the Registry:

Press Communiqués;

Background Notes, of which five are available:

II and *II bis. Synopsis of cases referred to the International Court of Justice (1947-1969* and *1969-1976);*
IV. Note by the Registry indicating the Rules of Court amended on 10 May 1972;
V. Note by the Registry on the Revised Rules of Court (1978);
VI. Collected unofficial summaries of decisions concerning the law of the sea (1946-1986);
VII. Note by the Registry indicating the Rules of Court (1978) amended on 5 December 2000.

Also obtainable, in the framework of the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law, from the Registry or United Nations Information Centres, are:

—a popular booklet entitled "The International Court of Justice. Questions and Answers about the Principal Judicial Organ of the United Nations" (2000), published by the United Nations Department of Public Information on co-operation with the Court. The Arabic, Chinese, Dutch, English, French, Russian and Spanish editions have been published.

– a "handbook", in French (English edition out of print), on *The International Court of Justice* (1996), the former edition (1986) of which was published in Arabic, Chinese, English, French, Russian, Spanish and German (German edition out of stock).

– unofficial Arabic, Chinese, Russian and Spanish texts of the Rules of Court.

A film on the Court by the United Nations Department of Public Information is also available on application to that Department or to a United Nations Information Centre.

Groups often ask to visit the Registry and have the way the Court functions explained to them. So far as the work of the Court permits, the Registrar accedes to requests of this kind. During the period under review the Court received a great number of groups including diplomats, scholars and academics, judges and representatives of judicial authorities, lawyers and legal professionals, as well as others.

Information on the assistance given to members of the public and representatives of the press to help them follow the proceedings in cases before the Court will be found within the following section (pp. 195, 197, 198).

III. PRACTICE IN REGARD TO PROCEDURE[1]

1. General

(a) *Official languages*

The official languages of the Court are French and English (Statute, Art. 39; Rules, Arts. 51, 70 and 71).

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[1] For decisions taken by the Court involving the application of its Statute and Rules in procedural matters, see *I.C.J. Yearbook 1962-1963*, pp. 91-137; *I.C.J. Yearbook 1963-1964*, pp. 99-109; *I.C.J. Yearbook 1964-1965*, pp. 87-88; *I.C.J. Yearbook 1965-1966*, pp. 91-92; *I.C.J. Yearbook 1966-1967*, p. 87; *I.C.J. Yearbook 1967-1968*, pp. 87-92; *I.C.J. Yearbook 1968-1969*, pp. 108-112; *I.C.J. Yearbook 1969-1970*, pp. 113-115; *I.C.J. Yearbook 1970-1971*, pp. 109-113; *I.C.J. Yearbook 1971-1972*, pp. 123-125; *I.C.J. Yearbook 1972-1973*, pp. 136-143; *I.C.J. Yearbook 1973-1974*, pp. 125-129; *I.C.J. Yearbook 1974-1975*, pp. 120-123; *I.C.J. Yearbook 1975-1976*, pp. 118-123; *I.C.J. Yearbook 1976-1977*, pp. 113-114; *I.C.J. Yearbook 1977-1978*, pp. 111-119; *I.C.J. Yearbook 1978-1979*, pp. 124-131; *I.C.J. Yearbook 1979-1980*, pp. 125-129; *I.C.J. Yearbook 1980-1981*, pp. 133-137; *I.C.J. Yearbook 1981-1982*, pp. 141-147; *I.C.J. Yearbook 1982-1983*, pp. 125-126; *I.C.J. Yearbook 1983-1984*, pp. 140-141; *I.C.J. Yearbook 1984-1985*, pp. 173-184; *I.C.J. Yearbook 1985-1986*, pp. 164-172; *I.C.J. Yearbook 1986-1987*, pp. 158-163; *I.C.J. Yearbook 1987-1988*, pp. 146-151; *I.C.J. Yearbook 1988-1989*, pp. 159-164; *I.C.J. Yearbook 1989-1990*, pp. 157-162; *I.C.J. Yearbook 1990-1991*, pp. 174-182; *I.C.J. Yearbook 1991-1992*, pp. 198-204; *I.C.J. Yearbook 1992-1993*, pp. 242-248; *I.C.J. Yearbook 1993-1994*, pp. 209-216; *I.C.J. Yearbook 1994-1995*, pp. 199-206; *I.C.J. Yearbook 1995-1996*, pp. 224-240; *I.C.J. Yearbook 1996-1997*, pp. 197-202; *I.C.J. Yearbook 1997-1998*, pp. 249-272; *I.C.J. Yearbook 1998-1999*, pp. 288-309; *I.C.J. Yearbook 1999-2000*, pp. 262-274; *I.C.J. Yearbook 2000-2001*, pp. 299-314; *I.C.J. Yearbook 2001-2002*, pp. 290-301; *I.C.J. Yearbook 2002-2003*, pp. 309-320; and pp. 305-317 in Chapter VI, below.

(b) *Official communications*

In all cases submitted to the Court, communications and documents for the Court are delivered to the Registrar and he is the regular channel for communications or notifications from the Court (Rules, Art. 26, para. 1, and Art. 30; Instructions for the Registry, Arts. 3, 11 and 13).

Communications in a case which are intended for a State party thereto are sent to its agent at the Hague address it designates for the purpose (Rules, Art. 40, para. 1).

For communications with other States, the Registrar requests the foreign ministers of States entitled to appear before the Court to indicate the channel through which their governments would wish to receive such communications. The channel of communication indicated is usually the Embassy in The Hague or the Ministry of Foreign Affairs of the State in question.

For public international organizations, the Registrar addresses the communications of the Court to the Director-General or Secretary-General of the organization as the case may be.

(c) *Minutes*

The Registrar is present at all sittings and meetings of the Court and is responsible for drawing up the minutes. After being signed by the President and the Registrar, these minutes are filed in the archives (Statute, Art. 47; Rules, Art. 21, Art. 26, para. 1 *(f)-(i)*, and Art. 71; Instructions for the Registry, Art. 19).

(d) *General List*

The Registrar prepares and keeps up to date a General List of cases submitted to the Court (Rules, Art. 26, para. 1 *(b)*, and Art. 38, para. 5; Instructions for the Registry, Art. 6, para. 1, and Art. 46, para. 3).

Extracts from the General List are supplied by the Registry on request, in the form of *Background Notes II* and *II bis: Synopsis of cases referred to the International Court of Justice (1947-1969* and *1969-1976)*.

(For the General List of the *Permanent Court of International Justice*, see *P.C.I.J., Series E, No. 16*, pp. 92-147.)

2. *Procedure in Contentious Cases*

(a) *Institution of proceedings and appointment of agents*

As soon as proceedings are instituted (see Chap. III, pp. 103-106, above), the special agreement or the application, filed in one of the two official languages of the Court, is translated and printed in a bilingual edition by the Registry, then communicated to all concerned and to the States entitled to appear before the Court (Statute, Art. 40; Rules, Art. 38, paras. 4 and 5; Art. 39, para. 1, and Art. 42).

The Registrar arranges for the publication of a press release informing the general public and the press that proceedings have been instituted. Copies of the special agreement or application may be obtained on request.

The party which files a document instituting proceedings informs the Court at the same time of the name of the agent who will be its representative in the proceedings and take steps on its behalf; the other party then appoints its agent as soon as possible (Statute, Art. 42; Rules, Art. 40; Practice Direction VIII). A party may also appoint a co-agent, a deputy-agent or an additional agent. Agents, and counsel and advocates also, enjoy such privileges and immunities as may be required for the independent exercise of their duties (Statute, Art. 42, para. 3; *I.C.J. Acts and Documents No. 5*, pp. 205 and 209).

The President, who is required to ascertain the views of the parties on questions of procedure, summons the agents to meet him as soon as possible after their appointment and whenever necessary thereafter (Rules, Art. 31).

At their first meeting with the Registrar the representatives of the Parties are given a *Note Containing Recommendations to the Parties*. That Note was made public in April 1998[1]. The Note was modified by the Court in December 2000 to expedite the proceedings on preliminary objections[2], in October 2001 to take into account the adoption of Practice Directions, and again in July 2004 following the amendment of existing Practice Direction V and the promulgation of new Practice Directions X, XI and XII (see pp. 3-4 above).

(b) *Written proceedings*

The written proceedings comprise the filing of pleadings within time-limits fixed in orders made by the Court or, if it is not sitting, the President; the pleadings are in principle confined to a Memorial and a Counter-Memorial, though the Court may if it thinks fit authorize or direct that there be a Reply and a Rejoinder (Statute, Art. 43; Rules, Arts. 44-46 and 48; Instructions for the Registry, Art. 14; Practice Direction I).

The party's submissions are set out in each pleading (Rules, Art. 49; Practice Direction II).

The agent of the party filing the pleading supplies the Registry (Statute, Art. 43, paras. 3 and 4; Rules, Arts. 50-52; Practice Directions III and IV) with the following:

- an original copy of the pleading, signed by him, to which is annexed a certified copy of any relevant document adduced in support of the contentions put forward;
- an English or French translation, certified by him to be accurate, of any part of a pleading or annexed document submitted in another language;
- a copy, certified by him, of the pleading and annexed documents, for communication to the other party;

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[1] See *I.C.J. Yearbook 1997-1998*, pp. 284-286, and I.C.J. Press Release 98/14.

[2] See *I.C.J. Yearbook 2000-2001*, p. 196.

- 125 further copies of the pleading and annexed documents (75 of which should be on paper, while 50 may be on CD-ROM);
- a diskette of any pleading prepared by electronic means;
- in the case of any document of which only parts are relevant and only necessary extracts have been annexed to the pleading, a copy of the whole document.

The format for the pleadings and annexes is 19 × 26 cm. If they are submitted in printed form, which is not compulsory, it is recommended that the Court's Typographical Rules (supplied by the Registry on request) be complied with.

The Registry usually translates, for the judges, pleadings and annexed documents, filed in one of the official languages of the Court, into the other official language (Rules, Art. 26, para. 1 (*g*)).

The Registrar arranges for the publication of press releases giving information concerning the course of the written proceedings. Moreover, the Court may, after ascertaining the views of the parties, communicate the pleadings on request to any State entitled to appear before the Court. It may also, after ascertaining the parties' views, make the pleadings available to the general public and the press on or after the opening of the oral proceedings (Rules, Art. 53); this is generally done by depositing copies in a number of Information Centres and libraries, including the Peace Palace Library. The pagination of the pleadings and annexed documents which may thus be made accessible is provisional in character. They are not given their final pagination until they are published in the *I.C.J. Pleadings* series (see (*e*) below).

(c) *Oral proceedings*

Upon the closure of the written proceedings, a case is ready for hearing. The opening date of the oral proceedings is fixed by the Court or, if it is not sitting, the President (Rules, Art. 54). Public sittings are held at the seat of the Court, usually from 10 a.m. to 1 p.m. on weekdays. They are devoted to hearing the arguments of counsel and such evidence of witnesses or experts as the parties may call; the Court itself may also arrange for a witness to be heard, entrust any individual, body or organization with the task of giving an expert opinion or decide on an inspection *in loco*[1] (Statute, Arts. 43-46 and 48-51; Rules, Arts. 57-68; Instructions for the Registry, Art. 20; Practice Direction VI).

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[1] In the *Corfu Channel* (*United Kingdom* v. *Albania*) case, the Court heard witnesses and experts presented by each of the Parties, appointed experts by Order and prescribed an enquiry on the spot. In the *Temple of Preah Vihear* (*Cambodia* v. *Thailand*) case, it heard witnesses and experts presented by each of the Parties. In the *South West Africa* (*Ethiopia* v. *South Africa; Liberia* v. *South Africa*) cases, it heard witnesses and experts presented by one Party, but did not accede to a request concerning an inspection *in loco*. In *Continental Shelf* (*Tunisia/Libyan Arab Jamahiriya*), it heard an expert presented by one Party. The Chamber constituted in the *Delimitation of the Maritime Boundary in the Gulf of Maine Area* (*Canada/United States of America*) case heard an expert presented by one Party and itself appointed, by Order, at the request of the Parties and in accordance with the Special Agreement concluded between

The Court settles the order in which the parties are heard, the number of counsel who will address the Court, and the method of handling the evidence (Rules, Art. 58, para. 2). It is customary for the parties to present their arguments in the order in which their pleadings have been deposited or, in the case of proceedings instituted by special agreement, in the order laid down by the Court after consultations with the agents of the parties. Speeches and statements are normally made in one of the Court's two official languages and are (simultaneously) interpreted into the other; arrangements may be made for some other language to be used (Statute, Art. 39; Rules, Art. 70; Instructions for the Registry, Art. 17).

When the Court or a judge puts a question to the agents, counsel and advocates, the answer may be given either immediately or within a time-limit fixed by the President; if given in writing it is communicated to the other party (Rules, Art. 61, paras. 2-4, and Art. 72).

A provisional verbatim record of each public sitting is drawn up by the Registry in the official language used, and translated into the other; copies in the original official language are then communicated to the parties and to the witnesses and experts in order that mistakes may be corrected under the supervision of the Court (Statute, Art. 47; Rules, Art. 71). A period of 24 hours is usually allowed for the submission of corrections.

In the course of the hearings each party reads out its final submissions and hands the Registrar copies of the text (Rules, Art. 60, para. 2). The filing of new documents after closure of the written proceedings is permissible only with the other party's consent or the authorization of the Court (Practice Direction IX); such documents must be filed in the same number of copies as the pleadings (see (*b*) above); the Registrar transmits them to the other party with a request for observations. No reference may be made to the contents of any document which has not been duly produced, unless the document is part of a publication readily available (Statute, Art. 52; Rules, Art. 56).

The Registrar issues press releases giving all necessary information as to the dates of the hearings (Instructions for the Registry, Art. 12). Members of the diplomatic corps, representatives of the press and any person who comes to the Peace Palace on the occasion of a hearing are

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them, a technical expert to assist it in its work. In the case concerning the *Continental Shelf* (*Libyan Arab Jamahiriya/Malta*), the Court heard experts presented by each of the Parties. In the case concerning *Military and Paramilitary Activities in and against Nicaragua* (*Nicaragua* v. *United States of America*) it heard witnesses presented by one Party. The Chamber constituted in the case concerning *Elettronica Sicula S.p.A.* (*ELSI*) (*United States of America* v. *Italy*) heard witnesses presented by one of the Parties and experts presented by each of them. In the case concerning the *Land, Island and Maritime Frontier Dispute* (*El Salvador/Honduras: Nicaragua intervening*) the Court heard a witness presented by one of the Parties, but did not accede to a request concerning an inspection *in loco*. The Court did pay a visit to the site of the hydroelectric dam project at Gabčíkovo-Nagymaros in the case concerning *Gabčíkovo-Nagymaros Project* (*Hungary/Slovakia*).

welcome to attend. Photographs may be taken for a few minutes at the opening of hearings. Filming for cinema or television purposes is allowed. There is a Press Room within the Peace Palace. As soon as the provisional, uncorrected verbatim records of each hearing have been duplicated they are made available to representatives of the press, though neither the text nor the pagination is final at that stage (see *(e)* below). These verbatim records are also published daily on the Court's website.

(d) *Deliberations*

After the close of the oral proceedings, the Court withdraws to deliberate in private and to prepare a judgment. The deliberations of the Court are conducted *in camera* and remain confidential. This applies to all aspects of the deliberations, including the schedule of meetings (Statute, Arts. 54-55; Rules, Arts. 19-21; Instructions for the Registry, Art. 16).

The manner in which the Court conducts its deliberations is governed by a resolution concerning the internal judicial practice of the Court, the most recent version of which was adopted on 12 April 1976 (see *I.C.J. Acts and Documents No. 5*, pp. 165-173).

(e) *Judgment*

The judgment is read out at a public sitting for which similar arrangements are made as for a hearing in open court, in particular with regard to the admission of the public and the assistance provided to representatives of the press (see *(c)* above).

The judgment is prepared in both official languages, of which one is indicated as authoritative (Statute, Art. 39; Rules, Art. 96). If it does not represent in whole or in part the unanimous opinion of the judges, any judge is entitled to attach a dissenting or separate opinion, or a declaration which records his position without stating his reasons; the judgment indicates the names of the judges constituting the majority (Statute, Arts. 56-58; Rules, Arts. 94 and 95).

Three original copies of the judgment are signed by the President and the Registrar and are then sealed; one is placed in the archives of the Court and the others are handed to the parties (Rules, Art. 95, para. 3; Instructions for the Registry, Art. 21).

Immediately after the public reading, copies of a special duplicated *tirage* are placed at the disposal of the judges and the representatives of the parties. At the same time an unofficial communiqué summarizing the decision is issued on the authority of the Registrar.

As soon as possible, the printed text of the judgment becomes available as a separate fascicle in the *I.C.J. Reports* series, which is sent to States entitled to appear before the Court and is placed on sale. Subsequently, the documentation of the case is published in one or more printed volumes of the series entitled *I.C.J. Pleadings, Oral Arguments, Documents*. It is these printed texts (see Chap. VII, pp. 340-354, below) which should be used for all purposes of quotation or citation.

(f) *Expenses and costs*

The expenses of the Court, including amounts payable to witnesses or experts appearing at the instance of the Court (Rules, Art. 68; Instructions for the Registry, Art. 18), are borne out of the United Nations budget; if a party to a case does not contribute to the United Nations budget, the Court itself fixes the amount payable by that party as a contribution towards the expenses of the Court for the case (see Chap. VIII, p. 369, below).

Each party bears its own costs, unless the Court makes an order in favour of a party for the payment of the costs (Statute, Art. 64; Rules, Art. 95, para. 1, and Art. 97).

In addition, there exists a Secretary-General's Trust Fund to Assist States in the Settlement of Disputes through the International Court of Justice, established on 1 November 1989[1]. The Fund is designed to encourage States to settle their disputes peaceably by submitting them to the Court. To be eligible for funding, a State must be entitled to appear before the Court (see Chap. III, pp. 95-102, for an explanation of which States are so entitled) and demonstrate a need for financial assistance. In addition, the dispute must be submitted to the Court by Special Agreement.

3. Occasional Rules in Contentious Cases

(a) *Provisional measures*

The Court has the power to indicate provisional measures (Statute, Art. 41). A request for such measures is treated as a matter of urgency, and the Court's decision is given in an order (Rules, Arts. 73-78)[2].

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[1] Cf. United Nations doc. A/44/PV.43 (1989).

[2] Such provisional measures have been requested in the following 34 cases: *Anglo-Iranian Oil Co. (United Kingdom v. Iran)*; *Interhandel (Switzerland v. United States of America)*; *Fisheries Jurisdiction (United Kingdom v. Iceland) (Federal Republic of Germany v. Iceland)*; *Nuclear Tests (Australia v. France) (New Zealand v. France)*; *Trial of Pakistani Prisoners of War (Pakistan v. India)*; *Aegean Sea Continental Shelf (Greece v. Turkey)*; *United States Diplomatic and Consular Staff in Tehran (United States of America v. Iran)*; *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)*; *Frontier Dispute (Burkina Faso/Republic of Mali)* (case referred to a Chamber); *Border and Transborder Armed Actions (Nicaragua v. Honduras)* (in this case the request was withdrawn); *Arbitral Award of 31 July 1989 (Guinea-Bissau v. Senegal)*; *Passage through the Great Belt (Finland v. Denmark)*; *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United Kingdom) (Libyan Arab Jamahiriya v. United States of America)*; *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)* (in this case two requests were made by Bosnia and Herzegovina and one by Serbia and Montenegro; *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria)*; *Request for an Examination of the Situation in Accordance with Paragraph 63 of the Court's Judgment of 20 December 1974 in the Nuclear Tests* (New Zealand v. France) *Case*; *Vienna Convention on Consular Relations (Paraguay v. United States of America)*; *LaGrand (Germany v. United States of America)*; in the ten cases concerning *Legality of Use of Force (Serbia and Montenegro v. Belgium) (Serbia and Montenegro v. Canada) (Serbia and Montenegro v. France) (Serbia and Montenegro v. Germany) (Serbia and Montenegro v. Italy) (Serbia and Montenegro v. Netherlands) (Serbia and Montenegro v. Portugal) (Yugoslavia v. Spain) (Serbia and Montenegro v. United*

(b) *Joinder of proceedings*

The Court may direct that the proceedings in two or more cases be joined (Rules, Art. 47). It does this by means of an order[1].

(c) *Preliminary objections*

Preliminary objections (see Chap. III, p. 105, above) must be filed as soon as possible, and not later than three months after the delivery of the Memorial (Rules, Art. 79). Notwithstanding that provision the Court, following the submission of the application in a case and after the President has met and consulted with the parties, may decide that any questions of jurisdiction and admissibility shall be determined separately. Where the Court so decides, the parties shall submit any pleadings as to jurisdiction and admissibility within the time-limits fixed by the Court and in the order determined by it. Preliminary objections suspend the proceedings on the merits and may be answered by the observations and submissions of the opposing party, to be filed within a time-limit fixed by an order. In accordance with Practice Direction V, this time-limit should generally not exceed four months from the date of the filing of the preliminary objections. Oral proceedings on the objections ensue, the party which raised them being called upon to speak first. The Court gives its decision on the objections in a judgment; if it dismisses them, the proceedings on the merits are resumed from the point of interruption; they are likewise resumed if it declares that the objections do not possess an exclusively preliminary character[2]. The Court may also give effect to

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Kingdom) (*Yugoslavia* v. *United States of America*); *Armed Activities on the Territory of the Congo* (*Democratic Republic of the Congo* v. *Uganda*); *Arrest Warrant of 11 April 2000* (*Democratic Republic of the Congo* v. *Belgium*); *Armed Activities on the Territory of the Congo* (*New Application: 2002*) (*Democratic Republic of the Congo* v. *Rwanda*); *Avena and Other Mexican Nationals* (*Mexico* v. *United States of America*); and *Certain Criminal Proceedings in France* (*Republic of the Congo* v. *France*).

[1] Proceedings were joined in the following cases: *South West Africa* (*Ethiopia* v. *South Africa; Liberia* v. *South Africa*); *North Sea Continental Shelf* (*Federal Republic of Germany/Denmark; Federal Republic of Germany/Netherlands*).

[2] The Court gave its decision on the preliminary objections raised in the following 22 cases: *Corfu Channel* (*United Kingdom* v. *Albania*); *Ambatielos* (*Greece* v. *United Kingdom*); *Anglo-Iranian Oil Co.* (*United Kingdom* v. *Iran*); *Nottebohm* (*Liechtenstein* v. *Guatemala*); *Monetary Gold Removed from Rome in 1943* (*Italy* v. *France, United Kingdom and United States of America*); *Certain Norwegian Loans* (*France* v. *Norway*); *Right of Passage over Indian Territory* (*Portugal* v. *India*); *Interhandel* (*Switzerland* v. *United States of America*); *Aerial Incident of 27 July 1955* (*Israel* v. *Bulgaria*); *Temple of Preah Vihear* (*Cambodia* v. *Thailand*); *South West Africa* (*Ethiopia* v. *South Africa; Liberia* v. *South Africa*); *Northern Cameroons* (*Cameroon* v. *United Kingdom*); *Barcelona Traction, Light and Power Company, Limited* (*New Application: 1962*) (*Belgium* v. *Spain*); *Elettronica Sicula S.p.A.* (*ELSI*) (*United States of America* v. *Italy*); *Certain Phosphate Lands in Nauru* (*Nauru* v. *Australia*); *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie* (*Libyan Arab Jamahiriya* v. *United Kingdom*) (*Libyan Arab Jamahiriya* v. *United States of America*); *Oil Platforms* (*Islamic Republic of Iran* v. *United States of America*); *Application of the Convention on the Prevention and Punishment of the Crime of Genocide* (*Bosnia and Herzegovina* v. *Serbia and Montenegro*); *Land and Maritime Boundary between*

an agreement between the parties that objections should be heard and determined within the framework of the merits[1].

(d) *Counter-claims*

Counter-claims may be presented if they are directly connected with the subject-matter of the claim of the other party and come within the jurisdiction of the Court. They are to be made by a party in its Counter-Memorial, as part of the submissions. In case of doubt, it is for the Court to decide whether a counter-claim is admissible and shall form part of the proceedings (Rules, Art. 80)[2].

Cameroon and Nigeria (Cameroon v. *Nigeria)*; and *Aerial Incident of 10 August 1999 (Pakistan* v. *India)*. Each of the respondent States in the cases concerning *Legality of Use of Force (Serbia and Montenegro* v. *Belgium) (Serbia and Montenegro* v. *Canada) (Serbia and Montenegro* v. *France) (Serbia and Montenegro* v. *Germany) (Serbia and Montenegro* v. *Italy) (Serbia and Montenegro* v. *Netherlands) (Serbia and Montenegro* v. *Portugal) (Serbia and Montenegro* v. *United Kingdom)* raised preliminary objections of lack of jurisdiction and admissibility. In other cases the Court was not called upon to give a decision on the preliminary objections, either because they were withdrawn (*Rights of Nationals of the United States of America in Morocco (France* v. *United States of America)*) or as the result of a discontinuance (*Aerial Incident of 27 July 1955 (United States of America* v. *Bulgaria)*; *Barcelona Traction, Light and Power Company, Limited* (first application) *(Belgium* v. *Spain)*; *Compagnie du Port, des Quais et des Entrepôts de Beyrouth and Société Radio-Orient (France* v. *Lebanon)*; *Aerial Incident of 3 July 1988 (Islamic Republic of Iran* v. *United States of America)*; *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo* v. *Burundi) (Democratic Republic of the Congo* v. *Rwanda)*). The Court also dealt with questions of jurisdiction or admissibility in the following 13 cases: *Appeal Relating to the Jurisdiction of the ICAO Council (India* v. *Pakistan)*; *Fisheries Jurisdiction (United Kingdom* v. *Iceland) (Federal Republic of Germany* v. *Iceland)*; *Nuclear Tests (Australia* v. *France) (New Zealand* v. *France)*; *Aegean Sea Continental Shelf (Greece* v. *Turkey)*; *United States Diplomatic and Consular Staff in Tehran (United States of America* v. *Iran)*; *Military and Paramilitary Activities in and against Nicaragua (Nicaragua* v. *United States of America)*; *Border and Transborder Armed Actions (Nicaragua* v. *Honduras)*; *Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar* v. *Bahrain)*; *East Timor (Portugal* v. *Australia)*; *Fisheries Jurisdiction (Spain* v. *Canada)*; and *LaGrand (Germany* v. *United States of America)*. The Court did not deal with questions of jurisdiction or admissibility raised in the case concerning the *Trial of Pakistani Prisoners of War (Pakistan* v. *India)*.

[1] This was done in the cases concerning *Elettronica Sicula S.p.A. (ELSI) (United States of America* v. *Italy)* and *East Timor (Portugal* v. *Australia)*. Preliminary objections were joined to the merits under the pre-1972 Rules of Court after agreement between the Parties in the case concerning *Certain Norwegian Loans (France* v. *Norway)* and by decision of the Court in the following two cases: *Right of Passage over Indian Territory (Portugal* v. *India)*; *Barcelona Traction, Light and Power Company, Limited (New Application: 1962) (Belgium* v. *Spain)*.

[2] Counter-claims were made by the respondent States, and admitted by the Court, in the cases concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina* v. *Serbia and Montenegro)*; *Oil Platforms (Islamic Republic of Iran* v. *United States of America)*; *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon* v. *Nigeria)*; and *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo* v. *Uganda)*. During the period under review, the Court has placed on record the withdrawal of the counter-claims submitted by the respondent State in the case concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina* v. *Serbia and Montenegro)*.

(e) *Intervention, presentation of information*

A third State may request to be permitted to intervene if it considers that it has an interest of a legal nature which may be affected by the decision in the case; it is for the Court to decide upon such a request (Statute, Art. 62; Rules, Arts. 81 and 83-85)[1].

If the dispute relates to the construction of a convention to which States other than those concerned in the case are parties, these States are notified forthwith and have the right to intervene in the proceedings (Statute, Art. 63; Rules, Arts. 43, 82-84 and 86)[2].

Similarly, public international organizations may, at the request of the Court or a party or on their own initiative, furnish the Court with information relevant to cases before it; whenever the construction of their constituent instruments or of a convention adopted thereunder is in question, they are notified (Statute, Art. 34, paras. 2 and 3; Rules, Art. 69).

(f) *Default, settlement, discontinuance*

If one of the parties does not appear before the Court or fails to defend its case, the other party may call upon the Court to decide in favour of its claim (Statute, Art. 53)[3].

The Court, or the President if the Court is not sitting, may, by way of an order, officially record the conclusion of a settlement or a discontinuance (Rules, Arts. 88 and 89)[1].

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[1] Applications for permission to intervene were submitted in the *Nuclear Tests* cases *(Australia v. France) (New Zealand v. France)*, in the cases concerning the *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)* and the *Continental Shelf (Libyan Arab Jamahiriya/Malta)*; in the case concerning the *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras)*; in the *Request for an Examination of the Situation in Accordance with Paragraph 63 of the Court's Judgment of 20 December 1974 in the* Nuclear Tests (New Zealand *v.* France) *Case*. (In that case, several States filed a document entitled "Application for Permission to Intervene under Article 62/Declaration of Intervention under Article 63"), in the case concerning the *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria)* and in the case concerning *Sovereignty over Pulau Ligitan and Pulau Sipadan (Indonesia/Malaysia)*.

[2] A third State intervened in the *Haya de la Torre (Colombia v. Peru)* case and a Declaration of Intervention was submitted in the case concerning *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)*. (See also footnote 1 above.)

[3] A number of judgments and orders were delivered in the absence of one of the parties: *Corfu Channel (United Kingdom v. Albania), Assessment of Amount of Compensation; Anglo-Iranian Oil Co. (United Kingdom v. Iran), Interim Protection; Nottebohm (Liechtenstein v. Guatemala), Preliminary Objection; Fisheries Jurisdiction (United Kingdom v. Iceland) (Federal Republic of Germany v. Iceland), Interim Protection, Jurisdiction of the Court* and *Merits; Nuclear Tests (Australia v. France) (New Zealand v. France), Interim Protection* and *Second Phase; Trial of Pakistani Prisoners of War (Pakistan v. India), Interim Protection; Aegean Sea Continental Shelf (Greece v. Turkey), Interim Protection* and *Jurisdiction of the Court; United States Diplomatic and Consular Staff in Tehran (United States of America v. Iran), Provisional Measures* and *Merits; Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America), Merits; Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. Bahrain), Jurisdiction and Admissibility*.

(g) *Execution, interpretation or revision of judgments*

The judgments of the Court are binding, final and without appeal (Charter, Art. 94, para. 1; Statute, Arts. 59-60; Rules, Art. 94, para. 2). The parties may, however, make a request for interpretation or, in certain circumstances, for revision of a judgment (see above, Chap. III, pp. 105-106). The decision of the Court on such requests is given in the form of a judgment (Statute, Arts. 60-61; Rules, Arts. 98-100)[2,3].

Article 94, paragraph 2, of the Charter of the United Nations states that, if any party to a case fails to perform the obligations incumbent upon it under a judgment, the other party may have recourse to the Security Council.

(h) *Special reference to the Court*

When a matter which has been the subject of proceedings before some other international body is brought before the Court, the provisions of the Statute and of the Rules apply (Rules, Art. 87)[4].

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[1] The following 18 cases ended in discontinuance: *Protection of French Nationals and Protected Persons in Egypt (France* v. *Egypt)*; *Electricité de Beyrouth Company (France* v. *Lebanon)*; *Aerial Incident of 27 July 1955 (United States of America* v. *Bulgaria) (United Kingdom* v. *Bulgaria)*; *Barcelona Traction, Light and Power Company, Limited (Belgium* v. *Spain)* (first application); *Compagnie du Port, des Quais et des Entrepôts de Beyrouth and Société Radio-Orient (France* v. *Lebanon)*; *Trial of Pakistani Prisoners of War (Pakistan* v. *India)*; *Border and Transborder Armed Actions (Nicaragua* v. *Costa Rica)*; *Border and Transborder Armed Actions (Nicaragua* v. *Honduras)*; *Passage through the Great Belt (Finland* v. *Denmark)*; *Certain Phosphate Lands in Nauru (Nauru* v. *Australia)*; *Maritime Delimitation between Guinea-Bissau and Senegal (Guinea-Bissau* v. *Senegal)*; *Aerial Incident of 3 July 1988 (Islamic Republic of Iran* v. *United States of America)*; *Vienna Convention on Consular Relations (Paraguay* v. *United States of America)*; *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo* v. *Burundi) (Democratic Republic of the Congo* v. *Rwanda)* and *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United Kingdom) (Libyan Arab Jamahiriya* v. *United States of America)*. Furthermore, the cases concerning *United States Diplomatic and Consular Staff in Tehran (United States of America* v. *Iran)* and *Military and Paramilitary Activities in and against Nicaragua (Nicaragua* v. *United States of America)* ended in discontinuance as regarded the question of reparation which the Judgment had left to be settled.

[2] The Court gave a decision on a request for interpretation of its Judgment in the case concerning *Asylum (Colombia/Peru)* and of its Judgment on preliminary objections in the case concerning the *Land and Maritime Boundary between Cameroon and Nigeria*. See also p. 106, footnotes 1 and 2, above.

[3] The Court gave a decision on an application for revision and interpretation submitted by Tunisia in connection with its Judgment in the case concerning the *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)* and an application for revision submitted by Yugoslavia in connection with its Judgment of 11 July 1996 on preliminary objections in the case concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina* v. *Yugoslavia)*.

[4] The Court was seised of an *Appeal Relating to the Jurisdiction of the ICAO Council (India* v. *Pakistan)* in the case of that name.

4. *Procedure in Advisory Cases*

In addition to the Rules of Court which are expressly applicable to proceedings in regard to advisory opinions, the Court is guided by the provisions which apply in contentious proceedings (Statute, Art. 68; Rules, Art. 102). It may thus be led to apply the articles of the Statute concerning judges *ad hoc* (see Chap. I, pp. 17-23, above).

The practical information given concerning the course of the procedure in contentious cases (see under 2, above) applies *mutatis mutandis* to the procedure in regard to advisory opinions, in particular as regards arrangements for the public and the representatives of the press.

(a) *Request*

Notice of a request for an advisory opinion (see Chap. III, pp. 106-108, above) is addressed to the Court by the Secretary-General of the United Nations or the chief administrative officer of the organization authorized to make the request; all documents likely to throw light upon the question are to be transmitted at the same time as the request or as soon as possible thereafter (Statute, Art. 65, para. 2; Rules, Art. 104).

Notice of the request for an advisory opinion is given to all States entitled to appear before the Court (Statute, Art. 66, para. 1).

In addition, the Court gives the States and international organizations considered likely to be able to furnish information on the question an opportunity to submit their views in writing or orally, or both (Statute, Art. 66, paras. 2-4).

(b) *Written and oral proceedings*

A request for an opinion usually gives rise to written proceedings followed by oral proceedings (Statute, Art. 66; Rules, Arts. 105 and 106).

In the case of urgency, the Court takes all necessary steps to accelerate the procedure (Rules, Art. 103)[1].

(c) *Deliberations*

The deliberations are conducted in the same manner as in contentious cases (Rules, Arts. 19-21 and 107; resolution concerning the Internal Judicial Practice of the Court, Art. 10).

(d) *Advisory opinion*

The advisory opinion is read in open Court; if it does not represent in whole or in part the unanimous opinion of the judges, any judge is entitled to attach a dissenting or separate opinion, or a declaration which records his position without stating his reasons; the advisory opinion indicates the names of the judges constituting the majority (Statute, Art. 67; Rules, Arts. 107 and 108).

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[1] The Court decided to accelerate the procedure in accordance with Article 103 of the Rules in the case concerning the *Applicability of the Obligation to Arbitrate under Section 21 of the United Nations Headquarters Agreement of 26 June 1947*.

One of the original copies of the advisory opinion is transmitted to the body which made the request (Rules, Art. 109).

The opinions given by the Court are purely advisory in character. The body requesting the opinion may however be committed to accepting it as binding by the terms of the instrument under which it is authorized to request advisory opinions of the Court.

IV. Occasional Functions Entrusted to the President of the International Court of Justice

1. International Instruments Providing for Appointment of Arbitrators, etc.

There are many international instruments which provide that in certain eventualities the President of the Court may be requested by the contracting parties to appoint arbitrators, umpires, members of conciliation commissions, etc. Requests of this sort have always been acceded to.

States proposing to insert such a provision in a treaty may consult the President as to his willingness to accept such a task, and submit the draft provision to him. This frequently provides that, if the President is of the nationality of one of the parties to the dispute, the appointment should be made either by the Vice-President or by the senior Member of the Court not so disqualified.

Such a provision is found, for instance, in bilateral agreements relating to air transport, social security, reparations or guarantees, loans, technical co-operation and the protection of investments; in multilateral treaties; in conventions or agreements concerning the constitution, status or privileges and immunities of international organizations; and in agreements or contracts concluded between States and international organs.

2. Other Requests for Appointment of Arbitrators

The President of the Court is sometimes requested to appoint arbitrators under the terms of contracts concluded between a State and a corporation or between corporations. Such requests are generally acceded to.

In such cases, too, the usual practice is to consult the President in advance and to submit the draft contract to him. It is usually provided that if the President is of the same nationality as one of the parties to the contract, the appointment should be made either by the Vice-President or by the senior Member of the Court not so disqualified.

3. Other Appointments

The President has also at times been requested by States or international organizations to appoint persons to fill other offices.

Such appointments are, for instance, provided for in texts such as Article 12 of the Protocol of 23 June 1953 for limiting and regulating the cultivation of the poppy plant, the production of, international and wholesale trade in, and use of opium, or Article 4 of the Regulations for the execution of the Convention of 14 May 1954 for the protection of cultural property in the event of armed conflict or, again, Rule 109.1 *(a)* of the Staff Rules of the United Nations and Regulation 9.1.1 of the Staff Regulations of the United Nations Educational, Scientific and Cultural Organization.

CHAPTER VI

WORK OF THE COURT IN 2003-2004

During the period under review a total of 26 cases — 25 contentious cases and one advisory case — were pending, 20 of which remained so at 31 July 2004.

Over this period the Court received a request for an advisory opinion from the General Assembly concerning the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*.

In each of the cases concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United Kingdom) (Libyan Arab Jamahiriya* v. *United States of America)*, the States parties notified the Court that they had "agreed to discontinue with prejudice the proceedings".

On 4 August 2003, the Republic of Liberia filed an Application in respect of a dispute with Sierra Leone concerning the indictment and international arrest warrant of 7 March 2003, issued against Charles Ghankay Taylor, President of the Republic of Liberia, by a decision of the Special Court for Sierra Leone at Freetown. In the Application, Liberia also requested the Court to indicate provisional measures. With regard to the Court's jurisdiction, Liberia referred to its own declaration of 1952 accepting the Court's jurisdiction as compulsory, and stated that

> "[w]ith a view to Article 38 (5) of the Rules of the Court, [it] expects the Republic of Sierra Leone to accede for the purpose of this Application to the jurisdiction of the Court pursuant to Article 36 (2) of the Statute of the Court . . .".

Article 38, paragraph 5, of the Rules of Court reads as follows:

> "When the applicant State proposes to found the jurisdiction of the Court upon a consent thereto yet to be given or manifested by the State against which such application is made, the application shall be transmitted to that State. It shall not however be entered in the General List, nor any action be taken in the proceedings, unless and until the State against which such application is made consents to the Court's jurisdiction for the purposes of the case."

In accordance with that Article, a copy of the Application, together with the request for provisional measures, was transmitted to the

Government of Sierra Leone. However, as of 31 July 2004, Sierra Leone had not given its consent to the Court's jurisdiction in the case; the Court has accordingly taken no action in the matter.

The Court held public hearings in the cases concerning *Legality of Use of Force (Serbia and Montenegro*[1] v. *Belgium) (Serbia and Montenegro*[1] v. *Canada) (Serbia and Montenegro*[1] v. *France) (Serbia and Montenegro*[1] v. *Germany) (Serbia and Montenegro*[1] v. *Italy) (Serbia and Montenegro*[1] v. *Netherlands) (Serbia and Montenegro*[1] v. *Portugal) (Serbia and Montenegro*[1] v. *United Kingdom)*, *Certain Property (Liechtenstein* v. *Germany)*, *Application for Revision of the Judgment of 11 September 1992 in the Case concerning the* Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening) *(El Salvador* v. *Honduras)* and *Avena and Other Mexican Nationals (Mexico* v. *United States of America)*, as well as on the request for an advisory opinion in the case concerning *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*. It further held a great number of private meetings.

The Court rendered judgments in the cases concerning *Oil Platforms (Islamic Republic of Iran* v. *United States of America)*, *Application for Revision of the Judgment of 11 September 1992 in the Case concerning the* Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening) *(El Salvador* v. *Honduras)* and *Avena and Other Mexican Nationals (Mexico* v. *United States of America)*. It also gave an Advisory Opinion in the case concerning *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*.

In the latter case the Court made an Order organizing the proceedings, as well as an Order on the composition of the Court. The Court further made Orders authorizing the submission of certain pleadings and fixing time-limits for their filing in the cases concerning *Territorial and Maritime Dispute (Nicaragua* v. *Colombia)* and *Certain Criminal Proceedings in France (Republic of the Congo* v. *France)*.

The President of the Court made an Order in each of the cases concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United Kingdom) (Libyan Arab Jamahiriya* v. *United States of America)* placing on record the discontinuance of the proceedings with prejudice, by agreement of the parties, and directing the removal of the case from the Court's List. He further made an Order fixing time-limits for the filing of pleadings in the case concerning *Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore)*.

The President of the Chamber in the case concerning the *Frontier Dispute (Benin/Niger)* made two Orders, authorizing the submission of certain pleadings and fixing the time-limit for their filing.

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[1] See footnote 1, p. 98, above.

I. CASES BEFORE THE COURT

A. CONTENTIOUS CASES

1, 2. Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United Kingdom) (Libyan Arab Jamahiriya v. United States of America)

On 3 March 1992, the Socialist People's Libyan Arab Jamahiriya filed two separate Applications instituting proceedings against the United Kingdom and the United States of America with regard to "dispute[s] . . . concerning the interpretation or application of the Montreal Convention" of 23 September 1971 for the Suppression of Unlawful Acts against the Safety of Civil Aviation.

In its Applications, Libya referred to charges made by the Lord Advocate of Scotland and an American Grand Jury against two Libyan nationals suspected of having caused the destruction of Pan Am Flight 103 over the town of Lockerbie, Scotland, on 21 December 1988, in which 270 people died. Following these charges, the United Kingdom and the United States had demanded that Libya surrender the alleged offenders for trial either in Scotland or in the United States and had seised the Security Council of the United Nations. Libya maintained that, by doing so, the United Kingdom and the United States had breached their legal obligations under the Montreal Convention and had to cease those breaches. It added that the Montreal Convention was the only instrument applicable to the destruction of the Pan Am aircraft over Lockerbie, that there was no other convention concerning international criminal law in force which was applicable to such issues between itself and the United Kingdom, nor between itself and the United States, and that, in accordance with the Montreal Convention, it was entitled to try the alleged offenders itself.

On 3 March 1992, Libya also asked the Court to indicate provisional measures to prevent further action by the United Kingdom and the United States to compel it to surrender the alleged offenders before any examination of the merits of the cases. However, by Orders of 14 April 1992 (*I.C.J. Reports 1992*, pp. 3 and 114), the Court, referring to resolution 748 which had been adopted in the meantime by the Security Council under Chapter VII of the United Nations Charter, found that the circumstances were not such as to require the exercise of its power to indicate such measures.

By Orders of 19 June 1992 (*ibid.*, pp. 231 and 234), the Court fixed 20 December 1993 as the time-limit for the filing of Memorials by Libya and 20 June 1995 as the time-limit for the filing of Counter-Memorials by the United Kingdom and the United States.

After Libya had filed its Memorials within the prescribed time-limit, the United Kingdom and the United States, on 16 and 20 June 1995 respectively, filed preliminary objections to the Court's jurisdiction and to the admissibility of Libya's Applications. The proceedings on the merits were accordingly suspended (Article 79 of the Rules of Court). After Libya had presented written statements of its observations and submissions on the preliminary objections within the time-limit of 22 December 1995 fixed by the Court, public sittings were held from 13 to 22 October 1997. In two separate Judgments of 27 February 1998 (*I.C.J. Reports 1998*, pp. 9 and 115 respectively), on the preliminary objections, the Court found that there existed disputes between the Parties concerning the interpretation or application of the Montreal Convention and that it had jurisdiction to hear the disputes on the basis of Article 14, paragraph 1, of the Montreal Convention, which concerns the settlement of disputes over the interpretation or application of the provisions of the Convention. The Court also found the Libyan claims admissible and stated that it was not appropriate, at that stage of the proceedings, to make a decision on the arguments of the United Kingdom and the United States that resolutions of the United Nations Security Council had rendered these claims without object.

By Orders dated 30 March 1998 (*I.C.J. Reports 1998*, pp. 237 and 240), the Court fixed 30 December 1998 as the time-limit for the filing of the Counter-Memorials of the United Kingdom and of the United States. The time-limit was subsequently extended by the Senior Judge, Acting President of the Court, to 31 March 1999 at the request of the United Kingdom and of the United States. The Counter-Memorials were filed within the time-limit thus extended.

By Orders of 29 June 1999 (*I.C.J. Reports 1999*, pp. 975 and 979), the Court authorized the submission of Replies by Libya and Rejoinders by the United Kingdom and the United States, fixing 29 June 2000 as the time-limit for the filing of Libya's Replies. Libya's Replies were filed within the prescribed time-limit.

In its Orders of 29 June 1999, the Court had, however, fixed no date for the filing of the Rejoinders; the representatives of the respondent States had expressed the desire that no such date be fixed at that stage of the proceedings, "in view of the new circumstances consequent upon the transfer of the two accused to the Netherlands for trial by a Scottish court".

Subsequently, by Orders of 6 September 2000 (*I.C.J. Reports 2000*, pp. 140 and 143), the President of the Court, taking account of the views of the Parties, fixed 3 August 2001 as the time-limit for the filing of the Rejoinder of the United Kingdom and the United States respectively. The Rejoinders were filed within the prescribed time-limit.

By two letters of 9 September 2003, the Governments of Libya and the United Kingdom on the one hand, and of Libya and the United States of America on the other, notified the Court that they had "agreed to discontinue with prejudice the proceedings". Following those notifications, the President of the Court, on 10 September 2003, made an Order in each of the cases (*I.C.J. Reports 2003*, pp. 149 and 152), placing on record the discontinuance of the proceedings with prejudice.

by agreement of the Parties, and directing the removal of the case from the Court's List.

3. Oil Platforms (Islamic Republic of Iran v. *United States of America)*

On 2 November 1992 the Islamic Republic of Iran filed an Application instituting proceedings against the United States of America in respect of a dispute concerning the destruction of three Iranian oil platforms. In its Application the Islamic Republic founded the jurisdiction of the Court on Article XXI, paragraph 2, of the Iran/United States Treaty of Amity, Economic Relations and Consular Rights, signed at Tehran on 15 August 1955 and which entered into force on 16 June 1957. Iran alleged that the destruction caused by a number of warships of the United States Navy, on 19 October 1987 and 18 April 1988, to three offshore oil production complexes, owned and operated for commercial purposes by the National Iranian Oil Company, constituted a fundamental breach of various provisions of the Treaty of Amity and of international law. Iran referred in particular to Article I of the Treaty which provides: "There shall be firm and enduring peace and sincere friendship between the United States of America and Iran." It also referred to Article X, paragraph 1, which provides: "Between the territories of the two High Contracting Parties there shall be freedom of commerce and navigation." At the end of its Application, the Islamic Republic accordingly requested the Court to adjudge and declare that "in attacking and destroying the oil platforms referred to in the [above-mentioned] Application on 19 October 1987 and 18 April 1988, the United States breached its obligations to the Islamic Republic"; that "in adopting a patently hostile and threatening attitude towards the Islamic Republic that culminated in the attack and destruction of the Iranian oil platforms, the United States breached the object and purpose of the Treaty of Amity, including Articles I and X (1), and international law"; and that "the United States [was] under an obligation to make reparations to the Islamic Republic for the violation of its international legal obligations in an amount to be determined by the Court at a subsequent stage of the proceedings."

By Orders of 4 December 1992 (*I.C.J. Reports 1992*, p. 763) and 3 June 1993 (*I.C.J. Reports 1993*, p. 35), the President of the Court fixed and extended the time-limits for the filing of the Memorial of Iran and of the Counter-Memorial of the United States. Iran's Memorial was filed within the extended time-limit of 8 June 1993.

On 16 December 1993, within the time-limit fixed for the filing of its Counter-Memorial, the United States of America filed a preliminary objection to the Court's jurisdiction; the proceedings on the merits were accordingly suspended (Article 79 of the Rules of Court). After the filing by Iran of a written statement on the preliminary objection within the time-limit of 1 July 1994 fixed by the Court's Order of 18 January 1994 (*I.C.J. Reports 1994*, p. 3), public hearings were held from 16 to 24 September 1996. By a Judgment of 12 December 1996 (*I.C.J. Reports*

1996, p. 803), the Court rejected the preliminary objection and found that it had jurisdiction, on the basis of Article XXI, paragraph 2, of the Treaty of 1955, to entertain the claims made by Iran under Article X, paragraph 1, of that Treaty.

Within the time-limit of 23 June 1997 fixed by the Court's Order of 16 December 1996 (*I.C.J. Reports 1996*, p. 902), the United States of America filed its Counter-Memorial together with a counter-claim, requesting the Court to adjudge and declare that

> "in attacking vessels, laying mines in the Gulf and otherwise engaging in military actions in 1987-88 that were dangerous and detrimental to maritime commerce, the Islamic Republic of Iran [had] breached its obligations to the United States under Article X of the 1955 Treaty",

and that

> "the Islamic Republic of Iran [was] accordingly under an obligation to make full reparation to the United States for violating the 1955 Treaty in a form and amount to be determined by the Court at a subsequent stage of the proceedings".

By a letter of 2 October 1997 Iran informed the Court of its position that the counter-claim as formulated by the United States did not meet the requirements of Article 80, paragraph 1, of the Rules of Court. After each Party had filed written observations, the Court, by an Order of 10 March 1998 (*I.C.J. Reports 1998*, p. 190), found that the counter-claim presented by the United States in its Counter-Memorial was admissible as such and formed part of the proceedings.

Iran filed a Reply within the extended time-limit of 10 March 1999 and the United States of America filed a Rejoinder within the extended time-limit of 23 March 2001. Iran was moreover authorized to file an additional pleading relating solely to the counter-claim and did so within the time-limit of 24 September 2001, as fixed by the Vice-President of the Court.

Public hearings on the merits of the case were held from 17 February to 7 March 2003. At the conclusion of those hearings the Parties presented their final submissions to the Court.

The Islamic Republic of Iran requested the Court to adjudge and declare:

> "1. That in attacking and destroying on 19 October 1987 and 18 April 1988 the oil platforms referred to in Iran's Application, the United States breached its obligations to Iran under Article X, paragraph 1, of the Treaty of Amity, and that the United States bears responsibility for the attacks; and
>
> 2. That the United States is accordingly under an obligation to make full reparation to Iran for the violation of its international legal obligations and the injury thus caused in a form and amount to be determined by the Court at a subsequent stage of

the proceedings, the right being reserved to Iran to introduce and present to the Court in due course a precise evaluation of the reparation owed by the United States; and

3. Any other remedy the Court may deem appropriate."

and, with respect to the counter-claim of the United States of America: "That the United States counter-claim be dismissed."

The United States of America requested the Court to adjudge and declare:

"(1) That the United States did not breach its obligations to the Islamic Republic of Iran under Article X, paragraph 1, of the 1955 Treaty between the United States and Iran; and

(2) That the claims of the Islamic Republic of Iran are accordingly dismissed."

and, with respect to its counter-claim, that the Court adjudge and declare:

"(1) Rejecting all submissions to the contrary, that, in attacking vessels in the Gulf with mines and missiles and otherwise engaging in military actions that were dangerous and detrimental to commerce and navigation between the territories of the United States and the Islamic Republic of Iran, the Islamic Republic of Iran breached its obligations to the United States under Article X, paragraph 1, of the 1955 Treaty; and

(2) That the Islamic Republic of Iran is accordingly under an obligation to make full reparation to the United States for its breach of the 1955 Treaty in a form and amount to be determined by the Court at a subsequent stage of the proceedings."

At a public sitting held on 6 November 2003, the Court delivered its Judgment (*I.C.J. Reports 2003*, p. 161), a summary of which is given below, followed by the text of the operative paragraph:

History of the proceedings and submissions of the Parties (paras. 1-20)

The Court begins by reciting the history of the proceedings and the submissions of the Parties as set out hereabove.

Basis of jurisdiction and factual background (paras. 21-26)

The Court then points out that its task in the present proceedings is to determine whether or not there have been breaches of the 1955 Treaty, and if it finds that such is the case, to draw the appropriate consequences according to the submissions of the Parties. The Court is seised both of a claim by Iran alleging breaches by the United States, and of a counter-claim by the United States alleging breaches by Iran. Its jurisdiction to entertain both the claim and the counter-claim is asserted to be based upon Article XXI, paragraph 2, of the 1955 Treaty.

The Court recalls that, as regards the claim of Iran, the question of jurisdiction has been the subject of its judgment of 12 December 1996. It notes that certain questions have however been raised between the Parties as to the precise significance or scope of that Judgment, which will be examined below.

As to the counter-claim, the Court also recalls that it decided by its Order of 10 March 1998 to admit the counter-claim, and indicated in that Order that the facts alleged and relied on by the United States "are capable of falling within the scope of Article X, paragraph 1, of the 1955 Treaty as interpreted by the Court", and accordingly that "the Court has jurisdiction to entertain the United States counter-claim in so far as the facts alleged may have prejudiced the freedoms guaranteed by Article X, paragraph 1" (*I.C.J. Reports 1998*, p. 204, para. 36). It notes that in this respect also questions have been raised between the Parties as to the significance and scope of that ruling on jurisdiction, and these will be examined below.

The Court points out that it is however established, by the decisions cited, that both Iran's claim and the counter-claim of the United States can be upheld only so far as a breach or breaches of Article X, paragraph 1, of the 1955 Treaty may be shown, even though other provisions of the Treaty may be relevant to the interpretation of that paragraph. Article X, paragraph 1, of the 1955 Treaty reads as follows: "Between the territories of the two High Contracting Parties there shall be freedom of commerce and navigation."

The Court then sets out the factual background to the case, as it emerges from the pleadings of both Parties, observing that the broad lines of this background are not disputed, being a matter of historical record. The actions giving rise to both the claim and the counter-claim occurred in the context of the general events that took place in the Persian Gulf – which is an international commercial route and line of communication of major importance – between 1980 and 1988, in particular the armed conflict that opposed Iran and Iraq. In 1984, Iraq commenced attacks against ships in the Persian Gulf, notably tankers carrying Iranian oil. These were the first incidents of what later became known as the "Tanker War": in the period between 1984 and 1988, a number of commercial vessels and warships of various nationalities, including neutral vessels, were attacked by aircraft, helicopters, missiles or warships, or struck mines in the waters of the Persian Gulf. Naval forces of both belligerent parties were operating in the region, but Iran has denied responsibility for any actions other than incidents involving vessels refusing a proper request for stop and search. The United States attributes responsibility for certain incidents to Iran, whereas Iran suggests that Iraq was responsible for them.

The Court takes note that two specific attacks on shipping are of particular relevance in this case. On 16 October 1987, the Kuwaiti tanker *Sea Isle City*, reflagged to the United States, was hit by a missile near Kuwait harbour. The United States attributed this attack to Iran, and three days later, on 19 October 1987, it attacked two Iranian offshore oil production installations in the Reshadat ("Rostam") complex. On 14 April 1988, the warship USS *Samuel B. Roberts* struck a mine in international waters near Bahrain while returning from an escort mission; four days later the United States employed its naval forces to attack and destroy simultaneously the Nasr ("Sirri") and Salman ("Sassan") complexes.

These attacks by United States forces on the Iranian oil platforms are claimed by Iran to constitute breaches of the 1955 Treaty; and the attacks on the *Sea Isle City* and the USS *Samuel B. Roberts* were invoked in support of the United States' claim to act in self-defence. The counter-claim of the United States is however not limited to those attacks.

The United States request to dismiss Iran's claim because of Iran's allegedly unlawful conduct (paras. 27-30)

The Court first considers a contention to which the United States appears to have attributed a certain preliminary character. The United States asks the Court to dismiss Iran's claim and refuse it the relief it seeks, because of Iran's allegedly unlawful conduct, i.e., its violation of the 1955 Treaty and other rules of international law relating to the use of force.

The Court notes that in order to make the finding requested by the United States it would have to examine Iranian and United States actions in the Persian Gulf during the relevant period – which it has also to do in order to rule on the Iranian claim and the United States counter-claim. At this stage of its judgment, it does not therefore need to deal with this request.

Application of Article XX, paragraph 1 (d), *of the 1955 Treaty* (paras. 31-78)

The Court recalls that the dispute in the present case has been brought before it on the jurisdictional basis of Article XXI, paragraph 2, of the 1955 Treaty, which provides that

> "Any dispute between the High Contracting Parties as to the interpretation or application of the present Treaty, not satisfactorily adjusted by diplomacy, shall be submitted to the International Court of Justice, unless the High Contracting Parties agree to settlement by some other pacific means."

The Court further recalls that by its Judgment of 12 December 1996, it found that it had jurisdiction, on the basis of this Article, "to entertain the claims made by the Islamic Republic of Iran under Article X, paragraph 1, of that Treaty" (*I.C.J. Reports 1996 (II)*, p. 821, para. 55 (2)). Its task is thus to ascertain whether there has been a breach by the United States of the provisions of Article X, paragraph 1; other provisions of the Treaty are only relevant in so far as they may affect the interpretation or application of that text.

In that respect, the Court notes that the United States has relied on Article XX, paragraph 1 *(d)*, of the Treaty as determinative of the question of the existence of a breach of its obligations under Article X. That paragraph provides that

> "The present Treaty shall not preclude the application of measures:
>
> . . . .
>
> *(d)* necessary to fulfil the obligations of a High Contracting Party for the maintenance or restoration of international peace and security, or necessary to protect its essential security interests."

In its Judgment on the United States preliminary objection of 12 December 1996, the Court ruled that Article XX, paragraph 1 *(d)*, does not afford an objection to admissibility, but "is confined to affording the Parties a possible defence on the merits" (*I.C.J. Reports 1996 (II)*, p. 811, para. 20). In accordance with Article XXI, paragraph 2, of the Treaty, it is now for the Court to interpret and apply that subparagraph, inasmuch as such a defence is asserted by the United States.

To uphold the claim of Iran, the Court must be satisfied both that the actions of the United States, complained of by Iran, infringed the freedom of commerce between the territories of the Parties guaranteed by Article X, paragraph 1, and that such actions were not justified to protect the essential security interests of the United States as contemplated by Article XX, paragraph 1 *(d)*. The question however arises in what order the Court should examine these questions of interpretation and application of the Treaty.

In the present case, it appears to the Court that there are particular considerations militating in favour of an examination of the application of Article XX, paragraph 1 *(d)*, before turning to Article X, paragraph 1. It is clear that the original dispute between the Parties related to the legality of the actions of the United States, in the light of international law on the use of force. At the time of those actions, neither Party made any mention of the 1955 Treaty. The contention of the United States at the time was that its attacks on the oil platforms were justified as acts of self-defence, in response to what it regarded as armed attacks by Iran, and on that basis it gave notice of its action to the Security Council under Article 51 of the United Nations Charter. Before the Court, it has continued to maintain that it was justified in acting as it did in exercise of the right of self-defence; it contends that, even if the Court were to find that its actions do not fall within the scope of Article XX, paragraph 1 *(d)*, those actions were not wrongful since they were necessary and appropriate actions in self-defence. Furthermore, as the United States itself recognizes in its Rejoinder, "The self-defense issues presented in this case raise matters of the highest importance to all members of the international community", and both Parties are agreed as to the importance of the implications of the case in the field of the use of force, even though they draw opposite conclusions from this observation. The Court therefore considers that, to the extent that its jurisdiction under

Article XXI, paragraph 2, of the 1955 Treaty authorizes it to examine and rule on such issues, it should do so.

The question of the relationship between self-defence and Article XX, paragraph 1 *(d)*, of the Treaty has been disputed between the Parties, in particular as regards the jurisdiction of the Court. In the view of the Court, the matter is one of interpretation of the Treaty, and in particular of Article XX, paragraph 1 *(d)*. The question is whether the parties to the 1955 Treaty, when providing therein that it should "not preclude the application of measures . . . necessary to protect [the] essential security interests" of either party, intended that such should be the effect of the Treaty even where those measures involved a use of armed force; and if so, whether they contemplated, or assumed, a limitation that such use would have to comply with the conditions laid down by international law. The Court considers that its jurisdiction under Article XXI, paragraph 2, of the 1955 Treaty to decide any question of interpretation or application of *(inter alia)* Article XX, paragraph 1 *(d)*, of that Treaty extends, where appropriate, to the determination whether action alleged to be justified under that paragraph was or was not an unlawful use of force, by reference to international law applicable to this question, that is to say, the provisions of the Charter of the United Nations and customary international law.

The Court therefore examines first the application of Article XX, paragraph 1 *(d)*, of the 1955 Treaty, which in the circumstances of this case, as explained above, involves the principle of the prohibition in international law of the use of force, and the qualification to it constituted by the right of self-defence. On the basis of that provision, a party to the Treaty may be justified in taking certain measures which it considers to be "necessary" for the protection of its essential security interests. In the present case, the question whether the measures taken were "necessary" overlaps with the question of their validity as acts of self-defence.

In this connection, the Court notes that it is not disputed between the Parties that neutral shipping in the Persian Gulf was caused considerable inconvenience and loss, and grave damage, during the Iran-Iraq war. It notes also that this was to a great extent due to the presence of mines and minefields laid by both sides. The Court has no jurisdiction to enquire into the question of the extent to which Iran and Iraq complied with the international legal rules of maritime warfare. It can however take note of these circumstances, regarded by the United States as relevant to its decision to take action against Iran which it considered necessary to protect its essential security interests. Nevertheless, the legality of the action taken by the United States has to be judged by reference to Article XX, paragraph 1 *(d)*, of the 1955 Treaty, in the light of international law on the use of force in self-defence.

The Court observes that the United States has never denied that its actions against the Iranian platforms amounted to a use of armed force. The Court indicates that it will examine whether each of these actions met the conditions of Article XX, paragraph 1 *(d)*, as interpreted by reference to the relevant rules of international law.

Attack of 19 October 1987 on Reshadat (paras. 46-64)

The Court recalls that the first installation attacked, on 19 October 1987, was the Reshadat complex, which was also connected by submarine pipeline to another complex, named Resalat. At the time of the United States attacks, these complexes were not producing oil due to damage inflicted by prior Iraqi attacks. Iran has maintained that repair work on the platforms was close to completion in October 1987. The United States has however challenged this assertion. As a result of the attack, one platform was almost completely destroyed and another was severely damaged and, according to Iran, production from the Reshadat and Resalat complexes was interrupted for several years.

The Court first concentrates on the facts tending to show the validity or otherwise of the claim to exercise the right of self-defence. In its communication to the Security Council at the time of the attack, the United States based this claim on the existence of "a series of unlawful armed attacks by Iranian forces against the United States, including laying mines in international waters for the purpose of sinking or damaging United States flag ships, and firing on United States aircraft without provocation"; it referred in particular to a missile attack on the *Sea Isle City* as being the specific incident that led to the attack on the Iranian platforms. Before the Court, it has based itself more specifically on the attack on the *Sea Isle City*, but has continued to assert the relevance of the other attacks.

The Court points out that the United States has not claimed to have been exercising collective self-defence on behalf of the neutral States engaged in shipping in the Persian Gulf. Therefore, in order to establish that it was legally justified in attacking the Iranian platforms in exercise of the right of individual self-defence, the United States has to show that attacks had been made upon it for which Iran was responsible; and that those attacks were of such a nature as to be qualified as "armed attacks" within the meaning of that expression in Article 51 of the United Nations Charter, and as understood in customary law on the use of force. The United States must also show that its actions were necessary and proportional to the armed attack made on it, and that the platforms were a legitimate military target open to attack in the exercise of self-defence.

Having examined with great care the evidence and arguments presented on each side, the Court finds that the evidence indicative of Iranian responsibility for the attack on the *Sea Isle City*, is not sufficient to support the contentions of the United States. The conclusion to which the Court has come on this aspect of the case is thus that the burden of proof of the existence of an armed attack by Iran on the United States, in the form of the missile attack on the *Sea Isle City*, has not been discharged.

In its notification to the Security Council, and before the Court, the United States has however also asserted that the *Sea Isle City* incident was "the latest in a series of such missile attacks against United States flag and other non-belligerent vessels in Kuwaiti waters in pursuit of peaceful commerce".

The Court finds that even taken cumulatively, and reserving the question of Iranian responsibility, these incidents do not seem to the Court to constitute an armed attack on the United States.

Attacks of 18 April 1988 on Nasr and Salman and "Operation Praying Mantis" (paras. 65-72)

The Court recalls that the second occasion on which Iranian oil installations were attacked was on 18 April 1988, with the attacks on the Salman and Nasr complexes. Iran states that the attacks caused severe damage to the production facilities of the platforms; that the activities of the Salman complex were totally interrupted for four years, its regular production being resumed only in September 1992, and reaching a normal level in 1993; and that activities in the whole Nasr complex were interrupted and did not resume until nearly four years later.

The nature of the attacks on the Salman and Nasr complexes, and their alleged justification, was presented by the United States to the United Nations Security Council in a letter from the United States Permanent Representative of 18 April 1988, which stated *inter alia* that the United States had "exercised their inherent right of self-defence under international law by taking defensive action in response to an attack by the Islamic Republic of Iran against a United States naval vessel in international waters of the Persian Gulf", namely the mining of the USS *Samuel B. Roberts*; according to the United States, "This [was] but the latest in a series of offensive attacks and provocations Iranian naval forces have taken against neutral shipping in the international waters of the Persian Gulf."

The Court notes that the attacks on the Salman and Nasr platforms were not an isolated operation, aimed simply at the oil installations, as had been the case with the attacks of 19 October 1987; they formed part of a much more extensive military action, designated "Operation Praying Mantis", conducted by the United States against what it regarded as "legitimate military targets"; armed force was used, and damage done to a number of targets, including the destruction of two Iranian frigates and other Iranian naval vessels and aircraft.

As in the case of the attack on the *Sea Isle City*, the first question is whether the United States has discharged the burden of proof that the USS *Samuel B. Roberts* was the victim of a mine laid by Iran. The Court notes that mines were being laid at the time by both belligerents in the Iran-Iraq war, so that evidence of other minelaying operations by Iran is not conclusive as to responsibility of Iran for this particular mine. The main evidence that the mine struck by the USS *Samuel B. Roberts* was laid by Iran was the discovery of moored mines in the same area, bearing serial numbers matching other Iranian mines, in particular those found aboard the vessel *Iran Ajr*. This evidence is highly suggestive, but not conclusive.

Furthermore, no attacks on United States-flagged vessels (as distinct from United States-owned vessels), additional to those cited as justification for the earlier attacks on the Reshadat platforms, have been brought to the Court's attention, other than the mining of the USS *Samuel B. Roberts* itself. The question is therefore whether that incident sufficed in itself to justify action in self-defence, as amounting to an "armed attack". The Court does not exclude the possibility that the mining of a single military vessel might be sufficient to bring into play the "inherent right of self-defence"; but in view of all the circumstances, including the inconclusiveness of the evidence of Iran's responsibility for the mining of the USS *Samuel B. Roberts*, the Court is unable to hold that the attacks on the Salman and Nasr platforms have been shown to have been justifiably made in response to an "armed attack" on the United States by Iran, in the form of the mining of the USS *Samuel B. Roberts*.

Criteria of necessity and proportionality (paras. 73-77)

The Court points out that in the present case a question of whether certain action is "necessary" arises both as an element of international law relating to self-defence and on the basis of the actual terms of Article XX, paragraph 1 *(d)*, of the 1955 Treaty, already quoted, whereby the Treaty does "not preclude . . . measures . . . necessary to protect [the] essential security interests" of either party. The Court therefore turns to the criteria of necessity and proportionality in the context of international law on self-defence. One aspect of these criteria is the nature of the target of the force used avowedly in self-defence.

The Court indicates that it is not sufficiently convinced that the evidence available supports the contentions of the United States as to the significance of the military presence and activity on the Reshadat oil platforms; and it notes that no such evidence is offered in respect of the Salman and Nasr complexes. However, even accepting those contentions, for the purposes of discussion, the Court finds itself unable to hold that the attacks made on the platforms could have been justified as acts of self-defence. In the case both of the attack on the *Sea Isle City* and the mining of the USS *Samuel B. Roberts*, the Court is not satisfied that the attacks on the platforms were necessary to respond to these incidents.

As to the requirement of proportionality, the attack of 19 October 1987 might, had the Court found that it was necessary in response to the *Sea Isle City* incident as an armed attack committed by Iran, have been considered proportionate. In the case of the attacks of 18 April 1988, however, they were conceived and executed as part of a more extensive operation entitled "Operation Praying Mantis". As a response to the mining, by an unidentified agency, of a single United States warship, which was severely damaged but not sunk, and without loss of life, neither "Operation Praying Mantis" as a whole, nor even that part of it that destroyed the Salman and Nasr platforms, can be regarded, in the circumstances of this case, as a proportionate use of force in self-defence.

Conclusion (para. 78)

The Court thus concludes from the foregoing that the actions carried out by United States forces against Iranian oil installations on 19 October 1987 and 18 April 1988 cannot be justified, under Article XX, paragraph 1 *(d)*, of the 1955 Treaty, as being measures necessary to protect the essential security interests of the United States, since those actions constituted recourse to armed force not qualifying, under international law on the question, as acts of self-defence, and thus did not fall within the category of measures contemplated, upon its correct interpretation, by that provision of the Treaty.

Iran's claim under Article X, paragraph 1, of the 1955 Treaty (paras. 79-99)

Having satisfied itself that the United States may not rely, in the circumstances of the case, on the defence to the claim of Iran afforded by Article XX, paragraph 1 *(d)*, of the 1955 Treaty, the Court turns to that claim, made under Article X, paragraph 1, of that Treaty, which provides that "Between the territories of the two High Contracting Parties there shall be freedom of commerce and navigation."

In its Judgment of 12 December 1996 on the preliminary objection of the United States, the Court had occasion, for the purposes of ascertaining and defining the scope of its jurisdiction, to interpret a number of provisions of the 1955 Treaty, including Article X, paragraph 1. It noted that the Applicant had not alleged that any military action had affected its freedom of navigation, so that the only question to be decided was "whether the actions of the United States complained of by Iran had the potential to affect 'freedom of commerce' as guaranteed by that provision" (*I.C.J. Reports 1996 (II)*, p. 817, para. 38). After examining the contentions of the Parties as to the meaning of the word, the Court concluded that

> "it would be a natural interpretation of the word 'commerce' in Article X, paragraph 1, of the Treaty of 1955 that it includes commercial activities in general – not merely the immediate act of purchase and sale, but also the ancillary activities integrally related to commerce" (*ibid.*, p. 819, para. 49).

In that decision, the Court also observed that it did not then have to enter into the question whether Article X, paragraph 1, "is restricted to commerce 'between' the Parties" (*I.C.J. Reports 1996 (II)*, p. 817, para. 44). However it is now common ground between the Parties that that provision is in terms limited to the protection of freedom of commerce "between the territories of the two High Contracting Parties". The Court observes that it is oil exports from Iran to the United States that are relevant to the case, not such exports in general.

In the 1996 Judgment, the Court further emphasized that "Article X, paragraph 1, of the Treaty of 1955 does not strictly speaking protect 'commerce' but '*freedom* of commerce' ", and continued:

> "Unless such freedom is to be rendered illusory, the possibility must be entertained that it could actually be impeded as a result of acts entailing the destruction of goods destined to be exported, or capable of affecting their transport and storage with a view to export." (*Ibid.*, p. 819, para. 50.)

The Court also noted that "Iran's oil production, a vital part of that country's economy, constitutes an important component of its foreign trade", and that

> "On the material now before the Court, it is . . . not able to determine if and to what extent the destruction of the Iranian oil platforms had an effect upon the export trade in Iranian oil . . ." (*Ibid.*, p. 820, para. 51.)

The Court concludes by observing that if, at the present stage of the proceedings, it were to find that Iran had established that such was the case, the claim of Iran under Article X, paragraph 1, could be upheld.

Before turning to the facts and to the details of Iran's claim, the Court mentions that the United States has not succeeded, to the satisfaction of the Court, in establishing that the limited military presence on the platforms, and the evidence as to communications to and from them, could be regarded as justifying treating the platforms as military installations (see above). For the same reason, the Court is unable to regard them as outside the protection afforded by Article X, paragraph 1, of the 1955 Treaty, as alleged by the United States.

The Court in its 1996 Judgment contemplated the possibility that freedom of commerce could be impeded not only by "the destruction of goods destined to be exported", but also by acts "capable of affecting their transport and their storage with a view to export" (*I.C.J. Reports 1996 (II)*, p. 819, para. 50). In the view of the Court, the activities of the platforms are to be regarded, in general, as commercial in nature; it does not, however, necessarily follow that any interference with such activities involves an impact on the freedom of commerce between the territories of Iran and the United States.

The Court considers that where a State destroys another State's means of production and transport of goods destined for export, or means ancillary or pertaining to such production or transport, there is in principle an interference with the freedom of international commerce. In destroying the platforms, whose function, taken as a whole, was precisely to produce and transport oil, the military actions made commerce in oil, at that time and from that source, impossible, and to that extent prejudiced freedom of commerce. While the oil, when it left the platform complexes, was not yet in a state to be safely exported, the fact remains that it could be already at that stage destined for export, and the destruction of the platform prevented further treatment necessary for export. The Court therefore finds that the protection of freedom of commerce under Article X, paragraph 1, of the 1955 Treaty applied to the platforms attacked by the United States, and the attacks thus impeded Iran's freedom of commerce. However, the question remains whether there was in this case an interference with freedom of commerce "between the territories of the High Contracting Parties".

The United States in fact contends further that there was in any event no breach of Article X, paragraph 1, inasmuch as, even assuming that the attacks caused some interference with freedom of commerce, it did not interfere with freedom of commerce "between the territories of the two High Contracting Parties". First, as regards the attack of 19 October 1987 on the Reshadat platforms, it observes that the platforms were under repair as a result of an earlier attack on them by Iraq; consequently, they were not engaged in, or contributing to, commerce between the territories of the Parties. Secondly, as regards the attack of 18 April 1988 on the Salman and Nasr platforms, it draws attention to United States Executive Order 12613, signed by President Reagan on 29 October 1987, which prohibited, with immediate effect, the import into the United States of most goods (including oil) and services of Iranian origin. As a consequence of the embargo imposed by this Order, there was, it is suggested, no commerce between the territories of the Parties that could be affected, and consequently no breach of the Treaty protecting it.

Iran has asserted, and the United States has not denied, that there was a market for Iranian crude oil directly imported into the United States up to the issuance of Executive Order 12613 of 29 October 1987. Thus Iranian oil exports did up to that time constitute the subject of "commerce between the territories of the High Contracting Parties" within the meaning of Article X, paragraph 1, of the 1955 Treaty.

The Court observes that at the time of the attack of 19 October 1987 no oil whatsoever was being produced or processed by the Reshadat and Resalat platforms, since these had been put out of commission by earlier Iraqi attacks. While it is true that the attacks caused a major setback to the process of bringing the platforms back into production, there was at the moment of the attacks on these platforms no ongoing commerce in oil produced or processed by them.

The Court further observes that the embargo imposed by Executive Order 12613 was already in force when the attacks on the Salman and Nasr platforms were carried out; and that, it has not been shown that the Reshadat and Resalat platforms would, had it not been for the attack of 19 October 1987, have resumed production before the embargo was imposed. The Court must therefore consider the significance of that Executive Order for the interpretation and application of Article X, paragraph 1, of the 1955 Treaty.

The Court sees no reason to question the view sustained by Iran that, over the period during which the United States embargo was in effect, petroleum products were reaching the United States, in considerable quantities, that were derived in part from Iranian crude oil. It points out, however, that what the Court has to determine is not whether something that could be designated "Iranian" oil entered the United States, in some form, during the currency of the embargo; it is whether there was "commerce" in oil between the territories of Iran and the United States during that time, within the meaning given to that term in the 1955 Treaty.

In this respect, what seems to the Court to be determinative is the nature of the successive commercial transactions relating to the oil, rather than the successive technical processes that it underwent. What Iran regards as "indirect" commerce in oil between itself and the United States involved a series of commercial transactions: a sale by Iran of crude oil to a customer in Western Europe, or some third country other than the United States; possibly a series of intermediate transactions; and ultimately the sale of petroleum products to a customer in the United States. This is not "commerce" between Iran and the United States, but commerce between Iran and an intermediate purchaser; and "commerce" between an intermediate seller and the United States.

The Court thus concludes, with regard to the attack of 19 October 1987 on the Reshadat platforms, that there was at the time of those attacks no commerce between the territories of Iran and the United States in respect of oil produced by those platforms and the Resalat platforms, inasmuch as the platforms were under repair and inoperative; and that the attacks cannot therefore be said to have infringed the freedom of commerce in oil between the territories of the High Contracting Parties protected by Article X, paragraph 1, of the 1955 Treaty, particularly taking into account the date of entry into force of the embargo effected by Executive Order 12613. The Court notes further that, at the time of the attacks of 18 April 1988 on the Salman and Nasr platforms, all commerce in crude oil between the territories of Iran and the United States had been suspended by that Executive Order, so that those attacks also cannot be said to have infringed the rights of Iran under Article X, paragraph 1, of the 1955 Treaty.

The Court is therefore unable to uphold the submissions of Iran, that in carrying out those attacks the United States breached its obligations to Iran under Article X, paragraph 1, of the 1955 Treaty. In view of this conclusion, the Iranian claim for reparation cannot be upheld.

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The Court furthermore concludes that, in view of this finding on the claim of Iran, it becomes unnecessary to examine the argument of the United States (referred to above) that Iran might be debarred from relief on its claim by reason of its own conduct.

*

United States counter-claim (paras. 101-124)

The Court recalls that the United States has filed a counter-claim against Iran and refers to the corresponding final submissions presented by the United States in the Counter-Memorial.

The Court further recalls that, by an Order of 10 March 1998 it found "that the counter-claim presented by the United States in its Counter-Memorial is admissible as such and forms part of the current proceedings".

Iran's objections to the Court's jurisdiction and to the admissibility of the United States counter-claim (paras. 103-116)

Iran maintains that the Court's Order of 10 March 1998 did not decide all of the preliminary issues involved in the counter-claim presented by the United States; the Court only ruled on the admissibility of the United States counter-claim in relation to Article 80 of the Rules of Court, declaring it admissible "as such", whilst reserving the subsequent procedure for further decision. Iran contends that the Court should not deal with the merits of the counter-claim, presenting five objections.

The Court considers that it is open to Iran at this stage of the proceedings to raise objections to the jurisdiction of the Court to entertain the counter-claim or to its admissibility, other than those addressed by the Order of 10 March 1998. It points out that this Order does not address any question relating to jurisdiction and admissibility not directly linked to Article 80 of the Rules. The Court indicates that it will therefore proceed to address the objections now presented by Iran.

The Court finds that it cannot uphold the first objection of Iran to the effect that the Court cannot entertain the counter-claim of the United States because it was presented without any prior negotiation, and thus does not relate to a dispute "not satisfactorily adjusted by diplomacy" as contemplated by Article XXI, paragraph 2, of the 1955 Treaty. The Court points out that it is established that a dispute has arisen between Iran and the United States over the issues raised in the counter-claim; and that it is sufficient for the Court to satisfy itself that the dispute was not satisfactorily adjusted by diplomacy before being submitted to the Court.

The Court finds that the second objection of Iran, according to which the United States is in effect submitting a claim on behalf of third States or of foreign entities and has no title to do so, is devoid of any object and cannot be upheld. The Court recalls that the first submission presented by the United States in regard to its counter-claim simply requests the Court to adjudge and declare that the alleged actions of Iran breached its obligations to the United States, without mention of any third States.

In its third objection, Iran contends that the United States counter-claim extends beyond Article X, paragraph 1, of the 1955 Treaty, the only text in respect of which the Court has jurisdiction, and that the

Court cannot therefore uphold any submissions falling outside the terms of paragraph 1 of that Article. The Court notes that the United States, in presenting its final submissions on the counter-claim, no longer relies, as it did at the outset, on Article X of the 1955 Treaty as a whole, but on paragraph 1 of that Article only, and, furthermore, recognizes the territorial limitation of Article X, paragraph 1, referring specifically to the military actions that were allegedly "dangerous and detrimental to commerce and navigation *between the territories of the United States and the Islamic Republic of Iran*" (emphasis added) rather than, generally, to "military actions that were dangerous and detrimental to maritime commerce". By limiting the scope of its counter-claim in its final submissions, the United States has deprived Iran's third objection of any object, and the Court finds that it cannot therefore uphold it.

In its fourth objection Iran maintains that

> "the Court has jurisdiction to rule only on counter-claims alleging a violation by Iran of freedom of commerce as protected under Article X (1), and not on counter-claims alleging a violation of freedom of navigation as protected by the same paragraph".

The Court notes nevertheless, that Iran seems to have changed its position and recognized that the counter-claim could be founded on a violation of freedom of navigation. The Court further observes that it also concluded in 1998 that it had jurisdiction to entertain the United States counter-claim in so far as the facts alleged may have prejudiced *the freedoms* (in the plural) guaranteed by Article X, paragraph 1, of the 1955 Treaty, i.e., freedom of commerce and freedom of navigation. This objection of Iran thus cannot be upheld by the Court.

Iran presents one final argument against the admissibility of the United States counter-claim, which however it concedes relates only to part of the counter-claim. Iran contends that the United States has broadened the subject-matter of its claim beyond the submissions set out in its counter-claim by having, belatedly, added complaints relating to freedom of navigation to its complaints relating to freedom of commerce, and by having added new examples of breaches of freedom of maritime commerce in its Rejoinder in addition to the incidents already referred to in the counter-claim presented with the Counter-Memorial.

The Court observes that the issue raised by Iran is whether the United States is presenting a new claim. The Court is thus faced with identifying what is "a new claim" and what is merely "additional evidence relating to the original claim". It is well established in the Court's jurisprudence that the parties to a case cannot in the course of proceedings "transform the dispute brought before the Court into a dispute that would be of a different nature." The Court recalls that it has noted in its Order of 10 March 1998 in the present case that the counter-claim alleged "attacks on shipping, the laying of mines, and other military actions said to be 'dangerous and detrimental to maritime commerce' " (*I.C.J. Reports 1998*, p. 204, para. 36). Subsequently to its Counter-Memorial and counter-claim and to that Order of the Court, the United States provided detailed particulars of further incidents substantiating, in its contention, its original claims. In the view of the Court, the United States has not, by doing so, transformed the subject of the dispute originally submitted to the Court, nor has it modified the substance of its counter-claim, which remains the same. The Court therefore cannot uphold the objection of Iran.

Merits of the United States counter-claim (paras. 119-123)

Having disposed of all objections of Iran to its jurisdiction over the counter-claim, and to the admissibility thereof, the Court considers the counter-claim on its merits. It points out that, to succeed on its counter-claim, the United States must show that: *(a)* its freedom of commerce or freedom of navigation between the territories of the High Contracting Parties to the 1955 Treaty was impaired; and that *(b)* the acts which allegedly impaired one or both of those freedoms are attributable to Iran.

The Court recalls that Article X, paragraph 1, of the 1955 Treaty does not protect, as between the Parties, freedom of commerce or freedom of navigation in general. As already noted above, the provision of that paragraph contains an important territorial limitation. In order to enjoy the protection provided by that text, the commerce or the navigation is to be *between the territories* of the United States and Iran. The United States bears the burden of proof that the vessels which were attacked were engaged in commerce or navigation between the territories of the United States and Iran.

The Court then examines each of Iran's alleged attacks, in chronological order, from the standpoint of this requirement of the 1955 Treaty and concludes that none of the vessels described by the United States as being damaged by Iran's alleged attacks was engaged in commerce or navigation "between the territories of the two High Contracting Parties". Therefore, the Court concludes that there has been no breach of Article X, paragraph 1, of the 1955 Treaty in any of the specific incidents involving these ships referred to in the United States pleadings.

The Court takes note that the United States has also presented its claim in a generic sense. It has asserted that as a result of the cumulation of attacks on United States and other vessels, laying mines and otherwise engaging in military actions in the Persian Gulf, Iran made the Gulf unsafe, and thus breached its obligation with respect to freedom of commerce and freedom of navigation which the United States should have enjoyed under Article X, paragraph 1, of the 1955 Treaty.

The Court observes that, while it is a matter of public record that as a result of the Iran-Iraq war navigation in the Persian Gulf involved much higher risks, that alone is not sufficient for the Court to decide that Article X, paragraph 1, was breached by Iran. It is for the United States to show that there was an *actual impediment* to commerce or navigation *between* the territories of the two High Contracting Parties.

However, the United States has not demonstrated that the alleged acts of Iran actually infringed the freedom of commerce or of navigation between the territories of the United States and Iran. The Court also notes that the examination above of specific incidents shows that none of them individually involved any interference with the commerce and navigation protected by the 1955 Treaty; accordingly the generic claim of the United States cannot be upheld.

The Court has thus found that the counter-claim of the United States concerning breach by Iran of its obligations to the United States under Article X, paragraph 1, of the 1955 Treaty, whether based on the specific incidents listed, or as a generic claim, must be rejected; there is therefore no need for it to consider, under this head, the contested issues of attribution of those incidents to Iran. In view of the foregoing, the United States claim for reparation cannot be upheld.

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Operative paragraph (para. 125)

"For these reasons,

THE COURT,

(1) By fourteen votes to two,

Finds that the actions of the United States of America against Iranian oil platforms on 19 October 1987 and 18 April 1988 cannot be justified as measures necessary to protect the essential security interests of the United States of America under Article XX, paragraph 1 (*d*), of the 1955 Treaty of Amity, Economic Relations and Consular Rights between the United States of America and Iran, as interpreted in the light of international law on the use of force; *finds* further that the Court cannot however uphold the submission of the Islamic Republic of Iran that those actions constitute a breach of the obligations of the United States of America under Article X, paragraph 1, of that Treaty, regarding freedom of commerce between the territories of the parties, and that, accordingly, the claim of the Islamic Republic of Iran for reparation also cannot be upheld;

IN FAVOUR: *President* Shi; *Vice-President* Ranjeva; *Judges* Guillaume, Koroma, Vereshchetin, Higgins, Parra-Aranguren, Kooijmans, Rezek, Buergenthal, Owada, Simma, Tomka; *Judge* ad hoc Rigaux;

AGAINST: *Judges* Al-Khasawneh, Elaraby;

(2) By fifteen votes to one,

Finds that the counter-claim of the United States of America concerning the breach of the obligations of the Islamic Republic of Iran under Article X, paragraph 1, of the above-mentioned 1955 Treaty, regarding freedom of commerce and navigation between the territories of the parties, cannot be upheld; and accordingly, that the counter-claim of the United States of America for reparation also cannot be upheld.

IN FAVOUR: *President* Shi; *Vice-President* Ranjeva; *Judges* Guillaume, Koroma, Vereshchetin, Higgins, Parra-Aranguren, Kooijmans, Rezek, Al-Khasawneh, Buergenthal, Elaraby, Owada, Tomka; *Judge* ad hoc Rigaux;

AGAINST: *Judge* Simma."

*

Vice-President Ranjeva and Judge Koroma appended declarations to the Judgment of the Court; Judges Higgins, Parra-Aranguren and Kooijmans appended separate opinions; Judge Al-Khasawneh appended a dissenting opinion; Judge Buergenthal appended a separate opinion; Judge Elaraby appended a dissenting opinion; Judges Owada and Simma and Judge *ad hoc* Rigaux appended separate opinions.

4. *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro[1])*

On 20 March 1993, Bosnia and Herzegovina filed an Application instituting proceedings against Serbia and Montenegro (then known as the Federal Republic of Yugoslavia) in respect of a dispute concerning alleged violations of the Convention on the Prevention and Punishment of the Crime of Genocide, adopted by the General Assembly of the United Nations on 9 December 1948 (hereinafter called the "Genocide Convention"). As the basis of the jurisdiction of the Court, Bosnia and Herzegovina invoked Article IX of that Convention.

In its Application, Bosnia and Herzegovina, among other claims, requested the Court to adjudge and declare that Serbia and Montenegro, through its agents and surrogates, "has killed, murdered, wounded, raped, robbed, tortured, kidnapped, illegally detained, and exterminated the citizens of Bosnia and Herzegovina", that it had to cease immediately this practice of so-called "ethnic cleansing" and pay reparations.

On 20 March 1993, Bosnia and Herzegovina also submitted a request for provisional measures. Public hearings were held on 1 and 2 April 1993, and by an Order dated 8 April 1993 (*I.C.J. Reports 1993*, p. 3) the Court indicated that Serbia and Montenegro "should immediately . . . take all measures within its power to prevent commission of the crime of genocide" and that both Serbia and Montenegro and Bosnia and Herzegovina "should not take any action and should ensure that no action is taken which may aggravate or extend the existing dispute . . . or render it more difficult of solution". The Court limited its provisional measures to requests falling within the jurisdiction conferred on it by the Genocide Convention.

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[1] See footnote 1, p. 98, above.

On 27 July 1993 Bosnia and Herzegovina filed a second request for provisional measures, followed on 10 August 1993 by a request for provisional measures of Serbia and Montenegro. Public hearings were held on 25 and 26 August 1993, and by an Order dated 13 September 1993 (*I.C.J. Reports 1993*, p. 325) the Court reaffirmed the measures indicated earlier, adding that they should be immediately and effectively implemented.

On 5 August 1993 the President of the Court addressed a message to both Parties, referring to Article 74, paragraph 4, of the Rules of Court, which enables him, pending the meeting of the Court, "to call upon the parties to act in such a way as will enable any order the Court may make on the request for provisional measures to have its appropriate effects".

The Memorial of Bosnia and Herzegovina was filed within the extended time-limit of 15 April 1994.

On 26 June 1995, within the extended time-limit for the deposit of its Counter-Memorial, Serbia and Montenegro filed preliminary objections to the jurisdiction of the Court and the admissibility of the Application; the proceedings on the merits were accordingly suspended (Article 79 of the Rules of Court). After Bosnia and Herzegovina had filed a written statement on the preliminary objections within the time-limit of 14 November 1995 fixed by the Court's Order of 14 July 1995 (*I.C.J. Reports 1995*, p. 279), public hearings were held between 29 April and 3 May 1996. On 11 July 1996 (*I.C.J. Reports 1996*, p. 595), the Court delivered its Judgment, rejecting the objections of Serbia and Montenegro; finding that, on the basis of Article IX of the Genocide Convention, it had jurisdiction to deal with the case; dismissing the additional basis of jurisdiction invoked by Bosnia and Herzegovina; and finding that the Application was admissible.

In the Counter-Memorial filed on 22 July 1997, Serbia and Montenegro submitted counter-claims requesting the Court to adjudge and declare that "Bosnia and Herzegovina [was] responsible for the acts of genocide committed against the Serbs in Bosnia and Herzegovina" and that it "ha[d] the obligation to punish the persons held responsible" for these acts. It also asked the Court to rule that "Bosnia and Herzegovina [was] bound to take necessary measures so that the said acts would not be repeated in future" and "to eliminate all consequences of the violation of the obligations established by the . . . [Genocide] Convention".

By a letter of 28 July 1997 Bosnia and Herzegovina informed the Court that

> "the Applicant [was] of the opinion that the Counter-Claim submitted by the Respondent . . . [did] not meet the criterion of Article 80, paragraph 1, of the Rules of Court and should therefore not be joined to the original proceedings".

After each Party had filed written observations, the Court, by an Order of 17 December 1997 (*I.C.J. Reports 1997*, p. 243), held that Serbia and

Montenegro's counter-claims were "admissible as such" and that they formed "part of the current proceedings" in the case; the Court also directed the Parties to submit further written pleadings on the merits of their respective claims and fixed time-limits for the filing of a Reply by Bosnia and Herzegovina and of a Rejoinder by Serbia and Montenegro. Those time-limits having been extended at the request of each of the Parties, the Reply of Bosnia and Herzegovina was eventually filed on 23 April 1998 and the Rejoinder of Serbia and Montenegro on 22 February 1999. In these pleadings, each of the Parties contested the allegations made by the other.

Since then several exchanges of letters have taken place concerning new procedural difficulties in the case.

By an Order of 10 September 2001 (*I.C.J. Reports 2001*, p. 572) the President of the Court placed on record the withdrawal by Serbia and Montenegro of the counter-claims submitted by that State in its Counter-Memorial. The Order was made after Serbia and Montenegro had informed the Court that it intended to withdraw its counter-claims and Bosnia and Herzegovina had indicated to the latter that it had no objection to that withdrawal.

It is recalled that, on 3 February 2003, the Court rendered its Judgment in the case concerning *Application for Revision of the Judgment of 11 July 1996 in the Case concerning* Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina *v.* Yugoslavia), Preliminary Objections *(Yugoslavia* v. *Bosnia and Herzegovina)* (*I.C.J. Reports 2003*, p. 7) by which it found that the request for revision was inadmissible.

It is further recalled that, on 4 May 2001, Serbia and Montenegro (then known as the Federal Republic of Yugoslavia) submitted a document to the Court, entitled "Initiative to the Court to reconsider *ex officio* Jurisdiction over Yugoslavia". The submissions presented in that document were, first, that the Court had no jurisdiction *ratione personae* over Serbia and Montenegro, and, secondly, that the Court should "suspend proceedings regarding the merits of the case until a decision on this Initiative", i.e. on the jurisdictional issue, had been rendered. In a letter dated 12 June 2003, the Registrar informed the parties in the case that the Court had decided that it could not effect such a suspension of the proceedings in the circumstances of the case.

5. *Gabčíkovo-Nagymaros Project (Hungary/Slovakia)*

On 2 July 1993, Hungary and Slovakia jointly notified to the Court a Special Agreement, signed between them on 7 April 1993, for the submission of certain issues arising out of differences regarding the implementation and the termination of the Budapest Treaty of 16 September 1977 on the construction and operation of the Gabčíkovo-Nagymaros barrage system.

In Article 2 of the Special Agreement:

> "(1) The Court is requested to decide on the basis of the Treaty and rules and principles of general international law, as well as such other treaties as the Court may find applicable,
>
> *(a)* whether the Republic of Hungary was entitled to suspend and subsequently abandon, in 1989, the works on the Nagymaros Project and on the part of the Gabčikovo Project for which the Treaty attributed responsibility to the Republic of Hungary;
>
> *(b)* whether the Czech and Slovak Federal Republic was entitled to proceed, in November 1991, to the 'provisional solution' and to put into operation from October 1992 this system, described in the Report of the Working Group of Independent Experts of the Commission of the European Communities, the Republic of Hungary and the Czech and Slovak Federal Republic dated 23 November 1992 (damming up of the Danube at river kilometre 1851.7 on Czechoslovak territory and resulting consequences on water and navigation course);
>
> *(c)* what are the legal effects of the notification, on 19 May 1992, of the termination of the Treaty by the Republic of Hungary.
>
> (2) The Court is also requested to determine the legal consequences, including the rights and obligations for the Parties, arising from its Judgment on the questions in paragraph (1) of this Article."

Each of the Parties filed a Memorial, a Counter-Memorial and a Reply within the respective time-limits of 2 May 1994, 5 December 1994 and 20 June 1995, as fixed by the Court or its President.

Hearings in the case were held between 3 March and 15 April 1997. From 1 to 4 April 1997, the Court paid a site visit (the first ever in its history) to the Gabčikovo-Nagymaros Project, by virtue of Article 66 of the Rules of Court.

In its Judgment of 25 September 1997 (*I.C.J. Reports 1997*, p. 7) the Court found that both Hungary and Slovakia had breached their legal obligations. It called on both States to negotiate in good faith in order to ensure the achievement of the objectives of the 1977 Budapest Treaty, which it declared was still in force, while taking account of the factual situation that had developed since 1989.

On 3 September 1998 Slovakia filed in the Registry of the Court a request for an additional Judgment in the case. Such an additional Judgment was necessary, according to Slovakia, because of the unwillingness of Hungary to implement the Judgment delivered by the Court in that case on 25 September 1997.

In its request, Slovakia stated that the Parties had conducted a series of negotiations on the modalities for executing the Court's Judgment and had initialled a draft Framework Agreement, which had been approved by the Government of Slovakia on 10 March 1998. Slovakia contended that on 5 March 1998 Hungary had postponed its approval and, upon the accession of its new Government following the May elections, it had proceeded to disavow the draft Framework Agreement and was further delaying the implementation of the Judgment. Slovakia maintained that it wanted the Court to determine the modalities for executing the Judgment.

As the basis for its request, Slovakia invoked Article 5 (3) of the Special Agreement signed at Brussels on 7 April 1993 by itself and Hungary with a view to the joint submission of their dispute to the Court.

Hungary filed a written statement of its position on the request for an additional Judgment made by Slovakia within the time-limit of 7 December 1998 fixed by the President of the Court.

The Parties subsequently have resumed negotiations and have informed the Court on a regular basis of the progress in them.

6. Ahmadou Sadio Diallo (Republic of Guinea v. Democratic Republic of the Congo)

On 28 December 1998 the Republic of Guinea filed an Application instituting proceedings against the Democratic Republic of the Congo by an "Application with a view to diplomatic protection", in which it requested the Court to "condemn the Democratic Republic of the Congo for the grave breaches of international law perpetrated upon the person of a Guinean national", Mr. Ahmadou Sadio Diallo.

According to Guinea, Mr. Ahmadou Sadio Diallo, a businessman who had been a resident of the Democratic Republic of the Congo for 32 years, was "unlawfully imprisoned by the authorities of that State" during two and a half months, "divested from his important investments, companies, bank accounts, movable and immovable properties, then expelled" on 2 February 1996 as a result of his attempts to recover sums owed to him by the Democratic Republic of the Congo (especially by Gécamines, a State enterprise with a monopoly with regard to mining) and by oil companies operating in that country (Zaïre Shell, Zaïre Mobil and Zaïre Fina) by virtue of contracts concluded with businesses owned by him, Africom-Zaïre and Africacontainers-Zaïre.

As a basis of the Court's jurisdiction, Guinea invoked its own declaration of acceptance of the compulsory jurisdiction of the Court, of 11 November 1998 and the declaration of the Democratic Republic of the Congo of 8 February 1989.

Guinea filed its Memorial within the time-limit as extended by the Court. On 3 October 2002, within the time-limit as extended for the deposit of its Counter-Memorial, the Democratic Republic of the Congo filed certain preliminary objections to the Court's jurisdiction and the admissibility of the Application; the proceedings on the merits were accordingly suspended (Article 79 of the Rules of Court).

By an Order of 7 November 2002 (*I.C.J. Reports 2002*, p. 607), the Court fixed 7 July 2003 as the time-limit within which Guinea might present a written statement of its observations and submissions on the preliminary objections raised by the Democratic Republic of the Congo. That written statement was filed within the time-limit thus fixed.

7-14. Legality of Use of Force (Serbia and Montenegro[1] *v. Belgium) (Serbia and Montenegro*[1] *v. Canada) (Serbia and Montenegro*[1] *v. France) (Serbia and Montenegro*[1] *v. Germany) (Serbia and Montenegro*[1] *v. Italy) (Serbia and Montenegro*[1] *v. Netherlands) (Serbia and Montenegro*[1] *v. Portugal) (Serbia and Montenegro*[1] *v. United Kingdom)*

On 29 April 1999 Serbia and Montenegro (then known as the Federal Republic of Yugoslavia) filed Applications instituting proceedings against Belgium, Canada, France, Germany, Italy, Netherlands, Portugal, Spain, United Kingdom and United States of America "for violation of the obligation not to use force".

In its Applications, Serbia and Montenegro pointed out that the above-mentioned States had committed "acts . . . by which [they] have violated [their] international obligation[s] banning the use of force against another State, not to intervene in the internal affairs of [that State]" and "not to violate [its] sovereignty"; "[their] obligation[s] to protect the civilian population and civilian objects in wartime [and] to protect the environment"; "[their] obligation[s] relating to free navigation on international rivers"; "[their] obligation[s] regarding fundamental human rights and freedoms"; and "[their] obligation[s] not to use prohibited weapons [and] not to deliberately inflict conditions of life calculated to cause the physical destruction of a national group". Serbia and Montenegro requested the Court to adjudge and declare *inter alia* that the States referred to above were "responsible for the violation of the above[-mentioned] international obligations" and that they were "obliged to provide compensation for the damage done".

As a basis for the jurisdiction of the Court, Serbia and Montenegro referred, in the Applications against Belgium, Canada, Netherlands, Portugal, Spain and the United Kingdom, to Article 36, paragraph 2, of the Statute of the Court and to Article IX of the Genocide Convention; and, in the Applications against France, Germany, Italy and the United States, to Article IX of the Genocide Convention and to Article 38, paragraph 5, of the Rules of Court.

On the same day, Serbia and Montenegro also submitted a request for the indication of provisional measures in each of these cases.

After public hearings on the requests for the indication of provisional measures had been held between 10 and 12 May 1999, the Court, on 2 June 1999, delivered eight Orders (*I.C.J. Reports 1999*, pp. 124, 259, 363, 422, 481, 542, 656, 761, 826 and 916), by which, in the cases *Serbia and Montenegro*[1] v. *Belgium*, *Serbia and Montenegro*[1] v. *Canada*, *Serbia and Montenegro*[1] v. *France*, *Serbia and Montenegro*[1] v.

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[1] See footnote 1, p. 98, above.

Germany, Serbia and Montenegro[1] v. *Italy, Serbia and Montenegro*[1] v. *Netherlands, Serbia and Montenegro*[1] v. *Portugal* and *Serbia and Montenegro*[1] v. *United Kingdom*, the Court, having found that it had no prima facie jurisdiction, rejected the requests for the indication of provisional measures submitted by Serbia and Montenegro and reserved the subsequent procedure for further decision. In the cases of *Yugoslavia* v. *Spain* and *Yugoslavia* v. *United States of America*, the Court – having found that it manifestly lacked jurisdiction to entertain Yugoslavia's Application and that, within a system of consensual jurisdiction, to maintain on the General List a case upon which it appeared certain that the Court would not be able to adjudicate on the merits would most assuredly not contribute to the sound administration of justice – rejected Yugoslavia's requests for the indication of provisional measures and ordered that those cases be removed from the List.

After the Memorial of Serbia and Montenegro, in each of the eight cases maintained on the Court's List, had been filed within the prescribed time-limit of 5 January 2000, each of the respondent States (Belgium, Canada, France, Germany, Italy, Netherlands, Portugal and United Kingdom) raised, on 5 July 2000, within the time-limit for the filing of its Counter-Memorial, certain preliminary objections of lack of jurisdiction and inadmissibility; the proceedings on the merits were accordingly suspended (Article 79 of the Rules of Court).

In each of the cases, the Court, by an Order of 8 September 2000 (*I.C.J. Reports 2000*, pp. 149, 152, 155, 158, 161, 164, 167 and 170), fixed 5 April 2001 as the time-limit within which Serbia and Montenegro might present a written statement of its observations and submissions on the preliminary objections raised by the respondent State. At the request of Serbia and Montenegro, the Court, by Orders of 21 February 2001 (*I.C.J. Reports 2001*, pp. 13, 16, 19, 22, 25, 28, 31 and 34) and 20 March 2002 (*I.C.J. Reports 2002*, pp. 192, 195, 198, 201, 204, 207, 210 and 213), extended that time-limit twice, to 5 April 2002 and 7 April 2003 respectively. In each of the cases, Serbia and Montenegro's written statement on the preliminary objections raised by the respondent State concerned was filed on 20 December 2002, within the time-limit thus extended.

Public hearings on the preliminary objections raised by each of the respondent States were held from 19 to 23 April 2004. At the conclusion of those hearings the Parties presented the following final submissions to the Court:

For Belgium:

> "In the case concerning the *Legality of Use of Force (Serbia and Montenegro* v. *Belgium)*, for the reasons set out in the Preliminary Objections of Belgium dated 5 July 2000, and also for the reasons

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[1] See footnote 1, p. 98, above.

set out during the oral submissions on 19 and 22 April 2004, Belgium requests the Court to:

(a) remove the case brought by Serbia and Montenegro against Belgium from the List;

(b) in the alternative, to rule that the Court lacks jurisdiction in the case brought by Serbia and Montenegro against Belgium and/or that the case brought by Serbia and Montenegro against Belgium is inadmissible."

For Canada:

"The Government of Canada requests the Court to adjudge and declare that the Court lacks jurisdiction because the Applicant has abandoned all the grounds of jurisdiction originally specified in its Application pursuant to Article 38, paragraph 2, of the Rules and has identified no alternative grounds of jurisdiction.

In the alternative, the Government of Canada requests the Court to adjudge and declare that:

- the Court lacks jurisdiction over the proceedings brought by the Applicant against Canada on 29 April 1999, on the basis of the purported declaration of 25 April 1999;
- the Court also lacks jurisdiction on the basis of Article IX of the Genocide Convention;
- the new claims respecting the period beginning 10 June 1999 are inadmissible because they would transform the subject of the dispute originally brought before the Court; and,
- the claims in their entirety are inadmissible because the subject matter of the case requires the presence of essential third parties that are not before the Court."

For France:

"For the reasons it has set out orally and in its written pleadings, the French Republic requests the International Court of Justice to:

- principally, remove the case from the List;
- in the alternative, to decide that it lacks jurisdiction to rule on the Application filed by the Federal Republic of Yugoslavia against France;
- and, in the further alternative, to decide that the Application is inadmissible."

For Germany:

"Germany requests the Court to dismiss the Application for lack of jurisdiction and, additionally, as being inadmissible on the grounds it has stated in its Preliminary Objections and during its oral pleadings."

For Italy:

"For the reasons set out in its Preliminary Objections and oral statements, the Italian Government submits as follows:

May it please the Court to adjudge and declare,

Principally, that:

I. No decision is called for on the Application filed in the Registry of the Court on 29 April 1999 by Serbia and Montenegro against the Italian Republic for 'violation of the obligation not to use force', as supplemented by the Memorial filed on 5 January 2000, inasmuch as there is no longer any dispute between Serbia and Montenegro and the Italian Republic or as the subject-matter of the dispute has disappeared.

In the alternative, that:

II. The Court lacks jurisdiction *ratione personarum* to decide the present case, since Serbia and Montenegro was not a party to the Statute when the Application was filed and also does not consider itself a party to a 'treaty in force' such as would confer jurisdiction on the Court, in accordance with Article 35, paragraph 2, of the Statute;

III. The Court lacks jurisdiction *ratione materiae* to decide the present case, since Serbia and Montenegro does not regard itself as bound by Article IX of the Genocide Convention, to which it made a reservation upon giving notice of accession in March 2001 and since, in any event, the dispute arising from the terms of the Application instituting proceedings, as supplemented by the Memorial, is not a dispute relating to 'the interpretation, application or fulfilment' of the Genocide Convention, as provided in Article IX;

IV. Serbia and Montenegro's Application, as supplemented by the Memorial, is inadmissible in its entirety, inasmuch as Serbia and Montenegro seeks thereby to obtain from the Court a decision regarding the legality of action undertaken by subjects of international law not present in the proceedings or not *all* so present;

V. Serbia and Montenegro's Application is inadmissible with respect to the eleventh submission, mentioned for the first time in the Memorial, inasmuch as Serbia and Montenegro seeks thereby to introduce a dispute altogether different from the original dispute deriving from the Application."

For the Netherlands:

"May it please the Court to adjudge and declare that

The Court has no jurisdiction or should decline to exercise jurisdiction as the parties in fact agree that the Court has no jurisdiction or as there is no longer a dispute between the parties on the jurisdiction of the Court

Alternatively,

— Serbia and Montenegro is not entitled to appear before the Court;
— The Court has no jurisdiction over the claims brought against the Netherlands by Serbia and Montenegro; and/or
— The claims brought against the Netherlands by the Serbia and Montenegro are inadmissible."

For Portugal:

"For the reasons given in the oral statements presented on behalf of Portugal during the present hearings and in the Preliminary Objections of 5 July 2000, the final submissions of the Portuguese Republic are as follows:

May it please the Court to adjudge and declare that

(i) The Court is not called upon to give a decision on the claims of Serbia and Montenegro

Alternatively

(ii) The Court lacks jurisdiction, either

(a) under Article 36, paragraph 2, of the Statute;
(b) under Article IX of the Genocide Convention;

and

The claims are inadmissible."

For the United Kingdom:

"For the reasons given in our written Preliminary Objections and at the oral hearing, the United Kingdom requests the Court:

to remove the case from its List,

or, in the alternative,

to adjudge and declare that:

it lacks jurisdiction over the claims brought against the United Kingdom by Serbia and Montenegro

and/or

the claims brought against the United Kingdom by Serbia and Montenegro are inadmissible."

For Serbia and Montenegro:

"For the reasons given in its pleadings and in particular in its Written Observations, subsequent correspondence with the Court and at the oral hearing, Serbia and Montenegro requests the Court

— to adjudge and declare on its jurisdiction *ratione personae* the present cases;
— to dismiss the remaining preliminary objections of the respondent States, and to order proceedings on the merits if it finds it has jurisdiction *ratione personae*."

On 31 July 2004, the Court was deliberating its Judgments.

15. Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)

On 23 June 1999 the Democratic Republic of the Congo filed an Application instituting proceedings against Uganda for "acts of *armed aggression* perpetrated . . . in flagrant violation of the United Nations Charter and of the Charter of the Organization of African Unity".

In its Application, the Democratic Republic of the Congo contended that "such armed aggression . . . ha[d] involved *inter alia* violation of the sovereignty and territorial integrity of the Democratic Republic of the Congo, violations of international humanitarian law and massive human rights violations". The Democratic Republic of the Congo sought "to secure the cessation of the acts of aggression directed against it, which constitute a serious threat to peace and security in central Africa in general and in the Great Lakes region in particular"; it also sought

> "compensation from Uganda in respect of all acts of looting, destruction, removal of property and persons and other unlawful acts attributable to [it], in respect of which the Democratic Republic of the Congo reserves the right to determine at a later date the precise amount of the damage suffered, in addition to its claim for the restitution of all property removed".

Consequently, the Democratic Republic of the Congo requested the Court to adjudge and declare that Uganda was guilty of an act of aggression contrary to Article 2, paragraph 4, of the United Nations Charter; that it was committing repeated violations of the Geneva Convention of 1949 and the Additional Protocols of 1977 and also guilty of massive human rights violations in defiance of the most basic customary law; that more specifically, by taking forcible possession of the Inga hydroelectric dam, and deliberately and regularly causing massive electrical power cuts, Uganda had rendered itself responsible for very heavy losses of life among the 5 million inhabitants of the city of Kinshasa and the surrounding area; and that by shooting down, on 9 October 1998 at Kindu, a Boeing 727 the property of Congo Airlines, thereby causing the death of 40 civilians, Uganda had also violated certain conventions concerning international civil aviation. The Democratic Republic of the Congo further asked the Court to adjudge and declare that all Ugandan armed forces and Ugandan nationals, both natural and legal persons, should be withdrawn from Congolese territory; and that the Democratic Republic of the Congo was entitled to compensation.

The Democratic Republic of the Congo invoked as basis for the Court's jurisdiction the declarations whereby both States have accepted the compulsory jurisdiction of the Court in relation to any other State accepting the same obligation (Article 36, paragraph 2, of the Statute of the Court).

Taking into account the agreement of the Parties, the Court, by an Order of 21 October 1999 (*I.C.J. Reports 1999*, p. 1022), fixed 21 July 2000 as the time-limit for the filing of a Memorial by the Congo and 21 April 2001 for the filing of a Counter-Memorial by Uganda. The Memorial of the Democratic Republic of the Congo was filed within the time-limit thus prescribed.

On 19 June 2000 the Democratic Republic of the Congo filed a request for the indication of provisional measures, stating that "since 5 June [2000], the resumption of fighting between the armed troops of . . . Uganda and another foreign army ha[d] caused considerable damage to the Congo and to its population", and "these tactics ha[d] been unanimously condemned, in particular by the United Nations Security Council". By letters of the same date, the President of the Court, acting in conformity with Article 74, paragraph 4, of the Rules of Court, drew "the attention of both Parties to the need to act in such a way as to enable any Order the Court will make on the request for provisional measures to have its appropriate effects".

Public hearings on the request for the indication of provisional measures were held on 26 and 28 June 2000. At a public sitting held on 1 July 2000, the Court rendered its Order (*I.C.J. Reports 2000*, p. 111), by which it unanimously found that both Parties must,

> "forthwith, prevent and refrain from any action, and in particular any armed action, which might prejudice the rights of the other Party in respect of whatever judgment the Court may render in the case, or which might aggravate or extend the dispute before the Court or make it more difficult to resolve";

> "forthwith, take all measures necessary to comply with all of their obligations under international law, in particular those under the United Nations Charter and the Charter of the Organization of African Unity, and with United Nations Security Council resolution 1304 (2000) of 16 June 2000";

and

> "forthwith, take all measures necessary to ensure full respect within the zone of conflict for fundamental human rights and for the applicable provisions of humanitarian law".

Within the time-limit of 21 April 2001 fixed by the Court's Order of 21 October 1999, Uganda filed its Counter-Memorial. The Counter-Memorial contained three counter-claims. The first concerned alleged acts of aggression against it by the Democratic Republic of the Congo; the second related to attacks on Ugandan diplomatic premises and personnel in Kinshasa and on Ugandan nationals for which the Democratic Republic of the Congo was alleged to be responsible; and the third dealt with alleged violations by the Democratic Republic of the Congo of the Lusaka Agreement. Uganda asked that the issue of reparation be reserved for a subsequent stage of the proceedings. By an Order of 29 November 2001 (*I.C.J. Reports 2001*, p. 660), the Court found that the first two of the counter-claims submitted by Uganda against the Democratic Republic of the Congo were "admissible as such and [formed] part of the current proceedings", but that the third was not. In view of these findings, the Court considered it necessary for the Democratic Republic of the Congo to file a Reply and Uganda a Rejoinder, addressing the claims of both Parties, and fixed 29 May 2002 as the time-limit for the filing of the Reply and 29 November 2002 for the Rejoinder. Further, in order to ensure strict equality between the Parties, the Court reserved the right of the Democratic Republic of the Congo to present its views in writing a second time on the Ugandan counter-claims, in an additional pleading to be the subject of a subsequent Order. The Reply was filed within the time-limit fixed. By an Order of 7 November 2002 (*I.C.J. Reports 2002*, p. 604), the Court extended the time-limit for the filing by Uganda of its Rejoinder and fixed 6 December 2002 as the new time-limit. The Rejoinder was filed within the time-limit as thus extended.

By an Order of 29 January 2003 (*I.C.J. Reports 2003*, p. 3) the Court authorized the submission by the Democratic Republic of the Congo of an additional pleading relating solely to the counter-claims submitted by Uganda, and fixed 28 February 2003 as the time-limit for its filing. That written pleading was filed within the time-limit fixed.

The Court fixed 10 November 2003 as the date for the opening of the hearings.

By a letter dated 5 November 2003, the Democratic Republic of the Congo raised the question whether the hearings might be adjourned to a later date, in April 2004, in order to enable the diplomatic negotiations engaged by the parties to be conducted in an atmosphere of calm. By a letter of 6 November 2003, Uganda indicated that it supported the proposal and adopted the request of the Congo.

By a letter dated 6 November 2003, the Registrar informed the Parties that the Court, acting under Article 54, paragraph 1, of the Rules of Court, and taking account of the representations made to it by the Parties, had decided that the opening of the oral proceedings would be postponed but had also decided that it was impossible to fix a date in April 2004 for the adjourned hearings. As the Court's judicial calendar until well into 2004 had been adopted some time before, providing for the hearing of, and deliberation on, a number of other cases, a new date for the opening of oral proceedings in this case would have to be fixed subsequently.

16. *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia and Montenegro*[1]*)*

On 2 July 1999 the Republic of Croatia filed an Application instituting proceedings against Serbia and Montenegro (then known as the Federal Republic of Yugoslavia) for violations of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide alleged to have been committed between 1991 and 1995.

In its Application, Croatia contended that

> "by directly controlling the activity of its armed forces, intelligence agents, and various paramilitary detachments, on the territory of . . . Croatia, in the Knin region, eastern and western Slavonia, and Dalmatia, [Serbia and Montenegro] is liable for the 'ethnic cleansing' of Croatian citizens from these areas . . . as well as extensive property destruction — and is required to provide reparation for the resulting damage".

Croatia went on to state that

> "in addition, by directing, encouraging, and urging Croatian citizens of Serb ethnicity in the Knin region to evacuate the area in 1995, as . . . Croatia reasserted its legitimate governmental authority . . . [Serbia and Montenegro] engaged in conduct amounting to a second round of 'ethnic cleansing'".

Accordingly, Croatia requested the Court to adjudge and declare that Serbia and Montenegro "has breached its legal obligations" to Croatia under the Genocide Convention and that it

> "has an obligation to pay to . . . Croatia, in its own right and as *parens patriae* for its citizens, reparations for damages to persons and property, as well as to the Croatian economy and environment caused by the foregoing violations of international law in a sum to be determined by the Court".

As a basis for the jurisdiction of the Court, Croatia invoked Article IX of the Genocide Convention, to which, it stated, both Croatia and Serbia and Montenegro are parties.

On 14 March 2001, within the time-limit as extended by the Court, Croatia filed its Memorial. On 11 September 2002, within the extended time-limit for the filing of its Counter-Memorial, Serbia and Montenegro filed certain preliminary objections to jurisdiction and admissibility. The proceedings on the merits were accordingly suspended (Article 79 of the Rules of Court). On 25 April 2003, within the time-limit fixed by the Court's Order of 14 November 2002 (*I.C.J. Reports 2002*, p. 610), Croatia filed a written statement of its observations and submissions on the preliminary objections raised by Serbia and Montenegro.

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[1] See footnote 1, p. 98, above.

17. Maritime Delimitation between Nicaragua and Honduras in the Caribbean Sea (Nicaragua v. Honduras)

On 8 December 1999 the Republic of Nicaragua filed an Application instituting proceedings against the Republic of Honduras in respect of a dispute concerning the delimitation of the maritime zones appertaining to each of those States in the Caribbean Sea.

In its Application, Nicaragua stated *inter alia* that it had for decades “maintained the position that its maritime Caribbean border with Honduras has not been determined”, while Honduras’s position was said to be that

> “there in fact exists a delimitation line that runs straight easterly on the parallel of latitude from the point fixed in [an Arbitral Award of 23 December 1906 made by the King of Spain concerning the land boundary between Nicaragua and Honduras, which was found valid and binding by the International Court of Justice on 18 November 1960] on the mouth of the Coco river”.

According to Nicaragua, “the position adopted by Honduras . . . has brought repeated confrontations and mutual capture of vessels of both nations in and around the general border area”. Nicaragua further stated that “diplomatic negotiations have failed”.

Nicaragua therefore requested the Court

> “to determine the course of the single maritime boundary between areas of territorial sea, continental shelf and exclusive economic zone appertaining respectively to Nicaragua and Honduras, in accordance with equitable principles and relevant circumstances recognized by general international law as applicable to such a delimitation of a single maritime boundary”.

As a basis for the Court’s jurisdiction, Nicaragua invoked Article XXXI of the American Treaty on Pacific Settlement (officially known as the “Pact of Bogotá”), signed on 30 April 1948, to which, it stated, both Nicaragua and Honduras are parties, as well as the declarations under Article 36, paragraph 2, of the Statute of the Court, by which both States have accepted the compulsory jurisdiction of the Court.

By an Order of 21 March 2000 (*I.C.J. Reports 2000*, p. 6), the Court fixed 21 March 2001 and 21 March 2002 as the respective time-limits for the filing of a Memorial by Nicaragua and a Counter-Memorial by Honduras. Those pleadings were duly filed within the prescribed time-limits.

Copies of the pleadings and documents annexed have been made available to the Governments of Colombia and of Jamaica, at their respective requests.

By an Order of 13 June 2002 (*I.C.J. Reports 2002*, p. 216), the Court authorized the submission of a Reply by Nicaragua and a Rejoinder by Honduras and fixed the following time-limits for the filing of these pleadings: 13 January 2003 for the Reply, and 13 August 2003 for the Rejoinder.

The Reply of Nicaragua and the Rejoinder of Honduras were filed within the time-limit thus fixed.

18. Certain Property (Liechtenstein v. Germany)

On 1 June 2001 Liechtenstein filed an Application instituting proceedings against Germany relating to a dispute concerning

> "decisions of Germany, in and after 1998, to treat certain property of Liechtenstein nationals as German assets having been 'seized for the purposes of reparation or restitution, or as a result of the state of war' — i.e., as a consequence of World War II —, without ensuring any compensation for the loss of that property to its owners, and to the detriment of Liechtenstein itself".

In its Application, Liechtenstein requested the Court "to adjudge and declare that Germany has incurred international legal responsibility and is bound to make appropriate reparation to Liechtenstein for the damage and prejudice suffered". Liechtenstein further requested "that the nature and amount of such reparation should, in the absence of agreement between the parties, be assessed and determined by the Court, if necessary, in a separate phase of the proceedings".

As a basis for the Court's jurisdiction, Liechtenstein invoked Article 1 of the European Convention for the Peaceful Settlement of Disputes, signed at Strasbourg on 29 April 1957.

By an Order of 28 June 2001 (*I.C.J. Reports 2001*, p. 565), the Court fixed 28 March 2002 and 27 December 2002, respectively, as the time-limits for the filing of a Memorial by Liechtenstein and of a Counter-Memorial by Germany. The Memorial was filed within the time-limit thus fixed.

On 27 June 2002, Germany filed certain preliminary objections to the jurisdiction of the Court and the admissibility of the Application; the proceedings on the merits were accordingly suspended (Article 79 of the Rules of Court). Liechtenstein filed a written statement of its observations and submissions with regard to the preliminary objections raised by Germany, within the time-limit of 15 November 2002, as fixed by the President of the Court.

Public hearings on the preliminary objections raised by Germany were held from 14 to 18 June 2004. At the conclusion of those hearings the Parties presented the following final submissions to the Court:

For Germany:

> "Germany requests the Court to adjudge and declare that:
>
> — it lacks jurisdiction over the claims brought against Germany by the Principality of Liechtenstein, referred to it by the Application of Liechtenstein of 30 May 2001,
>
> and that

> — the claims brought against Germany by the Principality of Liechtenstein are inadmissible to the extent specified in its preliminary objections."

For Liechtenstein:

> "The Principality of Liechtenstein respectfully requests the Court:
>
> (*a*) to adjudge and declare that the Court has jurisdiction over the claims presented in its Application and that they are admissible;
>
> and, accordingly
>
> (*b*) to reject the preliminary objections of Germany in their entirety."

On 31 July 2004, the Court was deliberating its Judgment.

19. Territorial and Maritime Dispute (Nicaragua v. Colombia)

On 6 December 2001 Nicaragua filed an Application instituting proceedings against Colombia in respect of a dispute concerning "a group of related legal issues subsisting" between the two States "concerning title to territory and maritime delimitation" in the western Caribbean.

In its Application, Nicaragua requested the Court to adjudge and declare:

> "*First*, that . . . Nicaragua has sovereignty over the islands of Providencia, San Andres and Santa Catalina and all the appurtenant islands and keys, and also over the Roncador, Serrana, Serranilla and Quitasueño keys (in so far as they are capable of appropriation);
>
> *Second*, in the light of the determinations concerning title requested above, the Court is asked further to determine the course of the single maritime boundary between the areas of continental shelf and exclusive economic zone appertaining respectively to Nicaragua and Colombia, in accordance with equitable principles and relevant circumstances recognized by general international law as applicable to such a delimitation of a single maritime boundary."

Nicaragua further indicated that it

> "reserves the right to claim compensation for elements of unjust enrichment consequent upon Colombian possession of the Islands of San Andres and Providencia as well as the keys and maritime spaces up to the 82 meridian, in the absence of lawful title".

It also "reserves the right to claim compensation for interference with fishing vessels of Nicaraguan nationality or vessels licensed by Nicaragua".

As a basis for the Court's jurisdiction, Nicaragua invoked Article 36, paragraph 2, of the Statute of the Court and Article XXXI of the American Treaty on Pacific Settlement (officially known as the "Pact of Bogotá"), signed on 30 April 1948, to which both Nicaragua and Colombia are parties.

Copies of the pleadings and documents annexed have been made available to the Government of Honduras, at its request.

By an Order of 26 February 2002 (*I.C.J. Reports 2002*, p. 189), the Court fixed 28 April 2003 and 28 June 2004 as the time-limits for the filing of a Memorial by Nicaragua and of a Counter-Memorial by Colombia. The Memorial of Nicaragua was filed within the time-limit thus fixed.

On 21 July 2003, Colombia filed preliminary objections to the jurisdiction of the Court. The proceedings on the merits were accordingly suspended (Article 79 of the Rules of Court). Nicaragua filed a written statement of its observations and submissions on the preliminary objections raised by Colombia, within the time-limit of 26 January 2004, fixed by the Court in its Order of 24 September 2003 (*I.C.J. Reports 2003*, p. 158).

20. Frontier Dispute (Benin/Niger)

On 3 May 2002 Benin and Niger jointly notified the Court of a Special Agreement, which was signed between them on 15 June 2001 in Cotonou and entered into force on 11 April 2002.

Under Article 1 of that Special Agreement, the Parties agreed to submit their boundary dispute to a Chamber to be formed by the Court; they also agreed that pursuant to Article 26, paragraph 2, of the Statute of the Court, and that each of them would choose a judge *ad hoc*.

Article 2 of the Special Agreement stated the subject-matter of the dispute in the following terms:

> "The Court is requested to:
>
> (*a*) determine the course of the boundary between the Republic of Benin and the Republic of Niger in the River Niger sector;
>
> (*b*) specify which State owns each of the islands in the said river, and in particular Lété Island;
>
> (*c*) determine the course of the boundary between the two States the River Mekrou sector."

Finally, Article 10 contained a "special undertaking" as follows: "Pending the judgment of the Chamber, the Parties undertake to preserve peace, security and quiet among the peoples of the two States."

By an Order of 27 November 2002 (*I.C.J. Reports 2002*, p. 613), the Court, after its President had been informed of the view of the Parties on the composition of the chamber and had reported to it, decided to accede to the request of both Parties that it should form a special chamber of five judges and formed a Chamber of three Members of the Court together with the two judges *ad hoc* chosen by the Parties, as follows: President Guillaume, Judges Ranjeva and Kooijmans, and Judges *ad hoc* Bedjaoui (chosen by Niger) and Bennouna (chosen by Benin).

The Court further fixed 27 August 2003 as the time-limit for the filing of a Memorial by each Party. Those Memorials were filed within the time-limit thus fixed.

In an Order of 11 September 2003 (*I.C.J. Reports 2003*, p. 155) the President of the Chamber fixed 28 May 2004 as the time-limit for the filing of a Counter-Memorial by each of the Parties. Those Counter-Memorials were filed within the time-limit thus fixed.

On Thursday 20 November 2003 the Chamber held its first public sitting, the aim of which was to enable the two judges *ad hoc* to make the solemn declaration required by the Statute and the Rules of Court.

By an Order of 9 July 2004 (*I.C.J. Reports 2004*, p. 133), the President of the Chamber, taking into account the wish of the parties to be authorized to submit a third pleading as provided for by the Special Agreement, authorized the submission of a Reply by each of the Parties and fixed 17 December 2004 as the time-limit for the filing of that pleading.

21. Armed Activities on the Territory of the Congo (New Application: 2002) (Democratic Republic of the Congo v. Rwanda)

On 28 May 2002, the Democratic Republic of the Congo filed an Application instituting proceedings against Rwanda in respect of a dispute concerning: "massive, serious and flagrant violations of human rights and of international humanitarian law" resulting

> "from acts of armed aggression perpetrated by Rwanda on the territory of the Democratic Republic of the Congo in flagrant breach of the sovereignty and territorial integrity of the [latter], as guaranteed by the United Nations Charter and the Charter of the Organization of African Unity".

In its Application, the Democratic Republic of the Congo stated that Rwanda has been guilty of "armed aggression" from August 1998 to the present day. According to it, that aggression has resulted in "large-scale human slaughter" in South Kivu, Katanga Province and the Eastern Province, "rape and sexual assault of women", "assassinations and kidnapping of political figures and human rights activists", "arrests, arbitrary detentions, inhuman and degrading treatment", "systematic looting of public and private institutions, seizure of property belonging to civilians", "human rights violations committed by the invading Rwandan troops and their 'rebel' allies in the major towns in the East" of the Democratic Republic of the Congo, and "destruction of fauna and flora" of the country.

In consequence, the Democratic Republic of the Congo requested the Court to adjudge and declare that by violating the human rights which are the goal pursued by the United Nations through the maintenance of international peace and security, Rwanda had violated and was violating the United Nations Charter as well as Articles 3 and 4 of the Charter of the Organization of African Unity; that it further had violated a number of instruments protecting human rights; that, by shooting down a Boeing 727 owned by Congo Airlines on 9 October 1998 in Kindu, thereby causing the death of 40 civilians, Rwanda had also violated certain conventions concerning international civil aviation; and that, by engaging in killing, slaughter, rape, throat-slitting, and crucifying, Rwanda was guilty of genocide against more than 3,500,000 Congolese, including the victims of the recent massacres in the city of Kisangani, and had violated the sacred right to life provided for in certain instruments protecting human rights as well as the Genocide Convention. It further asked the Court to adjudge and declare that all Rwandan armed forces should be withdrawn from Congolese territory; and that the Democratic Republic of the Congo was entitled to compensation.

In its Application the Democratic Republic of the Congo, in order to found the jurisdiction of the Court, relied on a number of compromissory clauses in treaties.

On the same day, 28 May 2002, the Democratic Republic of the Congo submitted a request for the indication of provisional measures. Public hearings on the request for provisional measures were held on 13 and 14 June 2002. On 10 July 2002, the Court delivered its Order (*I.C.J. Reports 2002*, p. 219), by which, having found that it had no prima facie jurisdiction, it rejected the request of the Democratic Republic of the Congo. The Court, in that Order, also rejected the submissions by the Rwandese Republic seeking the removal of the case from the Court's List.

By an Order of 18 September 2002 (*I.C.J. Reports 2002*, p. 299), the Court decided, in accordance with Article 79, paragraphs 2 and 3, of the revised Rules of Court, that the written pleadings would first be addressed to the questions of the jurisdiction of the Court and the admissibility of the Application and fixed 20 January 2003 as the time-limit for the Memorial of Rwanda and 20 May 2003 for the Counter-Memorial of the Democratic Republic of the Congo. Those pleadings were filed within the time-limits thus fixed.

22. *Application for Revision of the Judgment of 11 September 1992 in the Case concerning the* Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening) *(El Salvador v. Honduras)*

On 10 September 2002, El Salvador filed an Application for revision of the Judgment delivered on 11 September 1992 by the Chamber of the Court in the case concerning *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening)*. El Salvador indicated that "the sole purpose of the application is to seek revision of the course of the boundary decided by the Court for the sixth disputed sector of the land boundary between El Salvador and Honduras". El Salvador based its Application for revision on Article 61, paragraph 1, of the Statute of the Court.

In the Application El Salvador alleged that from the reasons given by the Chamber to establish the boundary line in the sixth sector, the following could be inferred:

> "(1) That a decisive factor in dismissing El Salvador's claim to a boundary along the old and original riverbed was the lack of evidence of an avulsion of the Goascorán River during the colonial period, and
>
> (2) That a decisive factor that persuaded the Chamber to accept Honduras's claim to a land boundary that follows the current course of the Goascorán, purported to be the course of the river at the time of independence in 1821, was the chart and the descriptive report of the Gulf of Fonseca that Honduras presented and that were supposedly drawn in 1796, as part of the expedition of the brigantine *El Activo*."

El Salvador claimed that it had obtained scientific, technical, and historical evidence which "demonstrates that the old course of the Goascorán River debouched in the Gulf of Fonseca at the Estero 'La Cutú', and that the river abruptly changed course in 1762". It contended that this evidence, "which was not available to the Republic of El Salvador prior to the date of the Judgment, can be classified, for purposes of the revision, as a *new fact*, with a character such that it lays the case open to revision".

El Salvador further claimed that

> "in the six months prior to making [its] application, [it] obtained cartographic and documentary evidence demonstrating the unreliability of the documents that form the backbone of the Chamber's *ratio decidendi*. A new chart and a new report from the expedition of the brig *El Activo* have been discovered".

El Salvador concluded that:

> "For purposes of this revision, we have, then, a second *new fact*, whose implications for the Judgment have to be considered once the Application for revision is admitted. Because the evidentiary value of the 'Carta Esférica' and the report of the *El Activo* expedition is in question, the use of the Saco negotiations (1880-1884) for corroborative purposes becomes worthless, a problem compounded by what the Republic of El Salvador considers to be the Chamber's erroneous assessment of those negotiations. In reality, far from reinforcing each other, the *El Activo* documents and the Saco documents contradict each other."

According to El Salvador the following assertions can be made on the basis of the scientific and historical evidence now available:

> "*(a)* that the present-day course of the Goascorán River was not the course of the river in 1880-1884, much less in 1821; *(b)* that the

old riverbed was the recognized boundary; and (*c*) that this riverbed was north of the Bay of La Unión, whose entire coastline belonged to the Republic of El Salvador".

For all these reasons, El Salvador requested the Court:

"(*a*) To proceed to form the Chamber that will hear the application for revision of the Judgment, bearing in mind the terms that El Salvador and Honduras agreed upon in the Special Agreement of 24 May 1986;

(*b*) To declare the application of the Republic of El Salvador admissible on the grounds of the existence of new facts of such a character as to lay the case open to revision under Article 61 of the Statute of the Court; and

(*c*) Once the application is admitted, to proceed to the revision of the Judgment of 11 September 1992, so that a new Judgment will determine the boundary line in the sixth disputed sector of the land frontier between El Salvador and Honduras to be as follows:

> 'Starting from the old mouth of the Goascorán river in the inlet known as the La Cutú Estuary situated at latitude 13° 22′ 00″ N and longitude 87° 41′ 25″ W, the frontier follows the old course of the Goascorán river for a distance of 17,300 metres as far as the place known as the Rompición de los Amates situated at latitude 13° 26′ 29″ N and longitude 87° 43′ 25″ W, which is where the Goascorán river changed its course.' "

By an Order of 27 November 2002 (*I.C.J. Reports 2002*, p. 618), the Court, after its President had been informed of the view of the Parties on the composition of the chamber and had reported to it, decided to accede to the request of both Parties that it should form a special chamber of five judges and formed a Chamber of three Members of the Court together with the two judges *ad hoc* chosen by the Parties, as follows: President Guillaume, Judges Rezek and Buergenthal, and Judges *ad hoc* Torres Bernárdez (chosen by Honduras) and Paolillo (chosen by El Salvador).

The Court further fixed 1 April 2003 as the time-limit for the filing of written observations by Honduras on the admissibility of the Application for revision. Those observations were deposited within the time-limit thus prescribed.

Hearings on the admissibility of the request for revision were held from 8 to 12 September 2003. At the conclusion of those hearings the Parties presented the following submissions to the Chamber:

For El Salvador:

"The Republic of El Salvador respectfully requests the Chamber, rejecting all contrary claims and submissions to adjudge and declare:

1. The Application of the Republic of El Salvador is admissible based on the existence of new facts of such a nature as to leave the case open to revision, pursuant to Article 61 of the Statute of the Court, and
2. Once the request is admitted that it proceed to a revision of the Judgment of 11 September 1992, so that a new judgment fixes the boundary line in the sixth disputed sector of the land boundary between El Salvador and Honduras as follows:

> 'Starting at the old mouth of the Goascorán River at the entry point known as the Estero de la Cutú, located at latitude 13 degrees 22 minutes 00 seconds north and longitude 87 degrees 41 minutes 25 seconds west, the border follows the old bed of the Goascorán River for a distance of 17,300 metres up to the place known as Rompición de Los Amates, located at latitude 13 degrees 26 minutes 29 seconds north and longitude 87 degrees 43 minutes 25 seconds west, which is where the Goascorán River changed course.' "

For Honduras:

> "The Government of the Republic of Honduras requests the Chamber to declare the inadmissibility of the Application for Revision presented on 10 September 2002 by El Salvador."

At a public sitting held on 18 December 2003 the Chamber delivered its Judgment (*I.C.J. Reports 2003*, p. 392), a summary of which is given below, followed by the text of the operative paragraph:

History of the proceedings and submissions of the Parties (paras. 1-14)

The Chamber begins by reciting the history of the proceedings and the submissions of the Parties as set out hereabove.

Basis of jurisdiction and circumstances of the case (paras. 15-22)

The Chamber then observes that, under Article 61 of the Statute, revision proceedings open with a judgment of the Court declaring the application admissible on the grounds contemplated by the Statute, and that Article 99 of the Rules of Court makes express provision for proceedings on the merits if, in its first judgment, the Court has declared the application admissible.

The Chamber observes that, at this stage, its decision is thus limited to the question whether El Salvador's request satisfies the conditions contemplated by the Statute. Under Article 61, these conditions are as follows:

(*a*) the application should be based upon the "discovery" of a "fact";
(*b*) the fact the discovery of which is relied on must be "of such a nature as to be a decisive factor";

(*c*) the fact should have been "unknown" to the Court and to the party claiming revision when the judgment was given;

(*d*) ignorance of this fact must not be "due to negligence"; and

(*e*) the application for revision must be "made at latest within six months of the discovery of the new fact" and before ten years have elapsed from the date of the judgment.

The Chamber observes that "an application for revision is admissible only if each of the conditions laid down in Article 61 is satisfied. If any one of them is not met, the application must be dismissed."

However, El Salvador appears to argue *in limine* that there is no need for the Chamber to consider whether the conditions of Article 61 of the Statute have been satisfied, since, by its attitude, "Honduras implicitly acknowledged the admissibility of El Salvador's Application".

In this respect, the Chamber observes that regardless of the parties' views on the admissibility of an application for revision, it is in any event for the Court, when seised of such an application, to ascertain whether the admissibility requirements laid down in Article 61 of the Statute have been met. Revision is not available simply by consent of the parties, but solely when the conditions of Article 61 are met.

The new facts alleged by El Salvador concern on the one hand the avulsion of the river Goascorán and on the other the "Carta Esférica" and the report of the 1794 *El Activo* expedition.

Avulsion of the river Goascorán (paras. 23-40)

"In order properly to understand El Salvador's present contentions", the Chamber first recapitulates part of the reasoning in the 1992 Judgment in respect of the sixth sector of the land boundary.

The Chamber then indicates that in the present case, El Salvador first claims to possess scientific, technical and historical evidence showing, contrary to what it understands the 1992 decision to have been, that the Goascorán did in the past change its bed, and that the change was abrupt, probably as a result of a cyclone in 1762. El Salvador argues that evidence can constitute "new facts" for purposes of Article 61 of the Statute.

El Salvador further contends that the evidence it is now offering establishes the existence of an old bed of the Goascorán debouching in the Estero La Cutú, and the avulsion of the river in the mid-eighteenth century or that at the very least, it justifies regarding such an avulsion as plausible. These are said to be "new facts" for purposes of Article 61. According to El Salvador, the facts thus set out are decisive, because the considerations and conclusions of the 1992 Judgment are founded on the rejection of an avulsion which, in the Chamber's view, had not been proved.

El Salvador finally maintains that, given all the circumstances of the case, in particular the "bitter civil war [which] was raging in El Salvador" "for virtually the whole period between 1980 and the handing down of the Judgment on 11 September 1992", its ignorance of the various new facts which it now advances concerning the course of the Goascoran was not due to negligence.

The Chamber states that Honduras, for its part, argues that with regard to the application of Article 61 of the Statute, it is "well-established case law that there is a distinction in kind between the facts alleged and the evidence relied upon to prove them and that only the discovery of the former opens a right to revision". Accordingly, in the view of Honduras, the evidence submitted by El Salvador cannot open a right to revision.

Honduras adds that El Salvador has not demonstrated the existence of a new fact. In reality, El Salvador is seeking "a new interpretation of previously known facts" and asking the Chamber for a "genuine reversal" of the 1992 Judgment.

Honduras further maintains that the facts relied on by El Salvador, even if assumed to be new and established, are not of such a nature as to be decisive factors in respect of the 1992 Judgment.

Honduras argues lastly that El Salvador could have had the scientific and technical studies and historical research which it is now relying on carried out before 1992.

Turning to consideration of El Salvador's submissions concerning the avulsion of the Goascoran, the Chamber recalls that an application for revision is admissible only if each of the conditions laid down in Article 61 is satisfied, and that if any one of them is not met, the application must be dismissed; in the present case, the Chamber begins by ascertaining whether the alleged facts, supposing them to be new facts, are of such a nature as to be decisive factors in respect of the 1992 Judgment.

In this regard, the Chamber first recalls the considerations of principle on which the Chamber hearing the original case relied for its ruling on the disputes between the two States in six sectors of their land boundary. According to that Chamber, the boundary was to be determined "by the application of the principle generally accepted in Spanish America of the *uti possidetis juris*, whereby the boundaries were to follow the colonial administrative boundaries" (para. 28 of the 1992 Judgment). The Chamber did however note that "the *uti possidetis juris* position can be qualified by adjudication and by treaty". It reasoned from this that "the question then arises whether it can be qualified in other ways, for example, by acquiescence or recognition". It concluded that

> "There seems to be no reason in principle why these factors should not operate, where there is sufficient evidence to show that the parties have in effect clearly accepted a variation, or at least an interpretation, of the *uti possidetis juris* position." (Para. 67 of the 1992 Judgment.)

The Chamber then considered "The contention of El Salvador that a former bed of the river Goascoran forms the *uti possidetis juris* boundary". In this respect, it observed that:

> "[this contention] depends, as a question of fact, on the assertion that the Goascorán formerly was running in that bed, and that at some date it abruptly changed its course to its present position. On this basis El Salvador's argument of law is that where a boundary is formed by the course of a river, and the stream suddenly leaves its old bed and forms a new one, this process of 'avulsion' does not bring about a change in the boundary, which continues to follow the old channel." (Para. 308 of the 1992 Judgment.)

The Chamber added that:

> "No record of such an abrupt change of course having occurred has been brought to the Chamber's attention, but were the Chamber satisfied that the river's course was earlier so radically different from its present one, then an avulsion might reasonably be inferred." (*Ibid.*)

Pursuing its consideration of El Salvador's argument, the Chamber did however note:

> "There is no scientific evidence that the previous course of the Goascorán was such that it debouched in the Estero La Cutú rather than in any of the other neighbouring inlets in the coastline, such as the Estero El Coyol". (Para. 309 of the 1992 Judgment.)

Turning to consideration as a matter of law of El Salvador's proposition concerning the avulsion of the Goascorán, the Chamber observed that El Salvador "suggests . . . that the change in fact took place in the 17th century" (para. 311 of the 1992 Judgment). It concluded that

> "On this basis, what international law may have to say, on the question of the shifting of rivers which form frontiers, becomes irrelevant: the problem is mainly one of Spanish colonial law." (Para. 311 of the 1992 Judgment.)

Beginning in paragraph 312 of the 1992 Judgment, the Chamber turned to a consideration of a different ground. At the outset, it tersely stated the conclusions which it had reached and then set out the reasoning supporting them. In the view of the Chamber,

> "any claim by El Salvador that the boundary follows an old course of the river abandoned at some time *before* 1821 must be rejected. It is a new claim and inconsistent with the previous history of the dispute." (Para. 312 of the 1992 Judgment.)

In the present case, the Chamber observes that, whilst in 1992 the Chamber rejected El Salvador's claims that the 1821 boundary did not follow the course of the river at that date, it did so on the basis of that State's conduct during the nineteenth century.

The Chamber concludes that, in short, it does not matter whether or not there was an avulsion of the Goascorán. Even if avulsion were now proved, and even if its legal consequences were those inferred by El Salvador, findings to that effect would provide no basis for calling into question the decision taken by the Chamber in 1992 on wholly different grounds. The facts asserted in this connection by El Salvador are not "decisive factors" in respect of the Judgment which it seeks to have revised.

Discovery of new copies of the "Carta Esférica" and report of the 1794 El Activo *expedition* (paras. 41-55)

The Chamber then examines the second "new fact" relied upon by El Salvador in support of its Application for revision, namely, the discovery in the Ayer Collection of the Newberry Library in Chicago of a further copy of the "Carta Esferica" and of a further copy of the report of the expedition of the *El Activo*, thereby supplementing the copies from the Madrid Naval Museum to which the 1992 Chamber made reference in paragraphs 314 and 316 of its Judgment.

The Chamber points out that Honduras denies that the production of the documents found in Chicago can be characterized as a new fact. For Honduras, this is simply "another copy of one and the same document already submitted by Honduras during the written stage of the case decided in 1992, and already evaluated by the Chamber in its Judgment". The Chamber proceeds first, as it did in respect of the avulsion, to determine first whether the alleged facts concerning the "Carta Esferica" and the report of the *El Activo* expedition are of such a nature as to be decisive factors in respect of the 1992 Judgment.

The Chamber recalls in this regard that its predecessor in 1992, after having held El Salvador's claims concerning the old course of the Goascoran to be inconsistent with the previous history of the dispute, considered "the evidence made available to it concerning the course of the river Goascorán in 1821" (para. 313 of the 1992 Judgment). The 1992 Chamber paid particular attention to the chart prepared by the captain and navigators of the vessel *El Activo* around 1796, described as a "Carta Esférica", which Honduras had found in the archives of the Madrid Naval Museum. That Chamber concluded from the foregoing "that the report of the 1794 expedition and the 'Carta Esférica' leave little room for doubt that the river Goascorán in 1821 was already flowing in its present-day course" (para. 316 of the 1992 Judgment).

In the present case, the Chamber observes in this connection, that the two copies of the "Carta Esférica" held in Madrid and the copy from Chicago differ only as to certain details, such as for example, the placing of titles, the legends, and the handwriting. These differences reflect the conditions under which documents of this type were prepared in the late eighteenth century; they afford no basis for questioning the reliability of the charts that were produced to the Chamber in 1992. The Chamber notes further that the Estero La Cutú and the mouth of the Rio Goascoran are shown on the copy from Chicago, just as on the copies from Madrid, at their present-day location. The new chart produced by El Salvador thus does not overturn the conclusions arrived at by the Chamber in 1992; it bears them out.

As for the new version of the report of the *El Activo* expedition found in Chicago, it differs from the Madrid version only in terms of certain details, such as the opening and closing indications, spelling, and placing of accents. The body of the text is the same, in particular in the identification of the mouth of the Goascorán. Here again, the new document produced by El Salvador bears out the conclusions reached by the Chamber in 1992.

The Chamber concludes from the foregoing that the new facts alleged by El Salvador in respect of the "Carta Esférica" and the report of the *El Activo* expedition are not "decisive factors" in respect of the Judgment whose revision it seeks.

Final observations (paras. 56-59)

The Chamber takes note of El Salvador's further contention that proper contextualization of the alleged new facts "necessitates consideration of other facts that the Chamber weighed and that are now affected by the *new facts*".

The Chamber states that it agrees with El Salvador's view that, in order to determine whether the alleged "new facts" concerning the avulsion of the Goascorán, the "Carta Esférica" and the report of the *El Activo* expedition fall within the provisions of Article 61 of the Statute, they should be placed in context, which the Chamber has done. However, the Chamber recalls that, under that Article, revision of a judgment can be opened only by

> "the discovery of some fact of such a nature as to be a decisive factor, which fact was, when the judgment was given, unknown to the Court and also to the party claiming revision, always provided that such ignorance was not due to negligence".

Thus, the Chamber cannot find admissible an application for revision on the basis of facts which El Salvador itself does not allege to be new facts within the meaning of Article 61.

*

Operative paragraph (para. 60)

"For these reasons,

THE CHAMBER,

By four votes to one,

Finds that the Application submitted by the Republic of El Salvador for revision, under Article 61 of the Statute of the Court, of the Judgment given on 11 September 1992, by the Chamber of the Court formed to deal with the case concerning the *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening)*, is inadmissible.

IN FAVOUR: *Judge* Guillaume, *President of the Chamber*; *Judges* Rezek, Buergenthal; *Judge* ad hoc Torres Bernárdez;

AGAINST: *Judge* ad hoc Paolillo."

*

Judge *ad hoc* Paolillo appended a dissenting opinion to the Judgment of the Chamber.

23. *Avena and Other Mexican Nationals (Mexico v. United States of America)*

On 9 January 2003, the United Mexican States instituted proceedings before the Court against the United States of America in a dispute concerning alleged violations of Articles 5 and 36 of the Vienna Convention on Consular Relations of 24 April 1963 with respect to 54 Mexican nationals who have been sentenced to death in the States of California, Texas, Illinois, Arizona, Arkansas, Florida, Nevada, Ohio, Oklahoma and Oregon.

In its Application, Mexico maintained that the 54 cases illustrate the systemic nature of the United States violation of its obligation under Article 36 of the Vienna Convention to inform nationals of Mexico of their right to consular assistance and to provide relief adequate to redress such violation. Mexico claimed that, in at least 49 of these cases, it has found no evidence that the competent United States authorities attempted to comply with Article 36 before Mexico's nationals were tried, convicted, and sentenced to death. It further noted that in four cases some attempt apparently was made to comply with Article 36, but that the authorities still failed to provide the required notification "without delay"; and that in one case the detained national was informed of his rights to consular notification and access in connection with immigration proceedings, but not in connection with pending capital charges. In the Application each case, catalogued by state, is then briefly described.

Accordingly, Mexico asked the Court to adjudge and declare:

"(1) that the United States, in arresting, detaining, trying, convicting, and sentencing the 54 Mexican nationals on death row described in this Application, violated its international legal obligations to Mexico, in its own right and in the exercise of its right of consular protection of its nationals, as provided by Articles 5 and 36, respectively of the Vienna Convention;

(2) that Mexico is therefore entitled to *restitutio in integrum*;

(3) that the United States is under an international legal obligation not to apply the doctrine of procedural default, or any other doctrine of its municipal law, to preclude the exercise of the rights afforded by Article 36 of the Vienna Convention;

(4) that the United States is under an international legal obligation to carry out in conformity with the foregoing international legal obligations any future detention of or criminal proceedings against the 54 Mexican nationals on death row or any other Mexican national in its territory, whether by a constituent, legislative, executive, judicial or other power, whether that power holds a superior or a subordinate position in the organization of the United States, and whether that power's functions are international or internal in character;

(5) that the right to consular notification under the Vienna Convention is a human right;

and that, pursuant to the foregoing international legal obligations,

(1) the United States must restore the *status quo ante*, that is, re-establish the situation that existed before the detention of, proceedings against, and convictions and sentences of, Mexico's nationals in violation of the United States international legal obligations;

(2) the United States must take the steps necessary and sufficient to ensure that the provisions of its municipal law enable full effect to be given to the purposes for which the rights afforded by Article 36 are intended;

(3) the United States must take the steps necessary and sufficient to establish a meaningful remedy at law for violations of the rights afforded to Mexico and its nationals by Article 36 of the Vienna Convention, including by barring the imposition, as a matter of municipal law, of any procedural penalty for the failure timely to raise a claim or defence based on the Vienna Convention where competent authorities of the United States have breached their obligation to advise the national of his or her rights under the Convention; and

(4) the United States, in light of the pattern and practice of violations set forth in this Application, must provide Mexico a full guarantee of the non-repetition of the illegal acts".

In its Application Mexico invoked as a basis for the Court's jurisdiction Article I of the Vienna Convention's Optional Protocol concerning the Compulsory Settlement of Disputes, which provides that "disputes arising out of the interpretation or application of the Convention shall lie within the compulsory jurisdiction of the International Court of Justice".

"In view of the extreme gravity and immediacy of the threat that authorities in the United States will execute a Mexican citizen in violation of obligations the United States owes to [it]", Mexico also filed, on 9 January 2003, an urgent request for the indication of provisional measures, asking that, pending final judgment in the case, the Court indicate that the United States take all measures necessary to ensure that no Mexican national be executed and that no execution dates be set for any Mexican national; that the United States report to the Court the actions it has taken in that respect; and that it ensure that no action is taken that might prejudice the rights of the United Mexican States or its nationals with respect to any decision this Court may render on the merits of the case.

At the hearings held on 21 January 2003, Mexico confirmed its request for the indication of provisional measures, while the United States asked the Court to reject that request and not to indicate any such measures.

On 5 February 2003, the Court unanimously adopted an Order indicating provisional measures (*I.C.J. Reports 2003*, p. 77). In that Order, it decided that the United States of America should take "all measures necessary" to ensure that Mr. César Roberto Fierro Reyna, Mr. Roberto Moreno Ramos and Mr. Osvaldo Torres Aguilera, of Mexican nationality, are not executed pending a final judgment of the Court; that the United States of America should inform the Court of all measures taken in implementation of that Order; and that the Court would remain seised of the matters which formed the subject of the Order until it had rendered its final judgment.

By a separate Order, also dated 5 February 2003 (*I.C.J. Reports 2003*, p. 96), the Court, taking into account the views of the Parties, fixed 6 June 2003 as the time-limit for the filing of a Memorial by Mexico and 6 October 2003 as the time-limit for the filing of a Counter-Memorial by the United States of America. By an Order of 22 May 2003 (*I.C.J. Reports 2003*, p. 99), the President of the Court, at the joint request of the Parties, extended these time-limits to 20 June 2003 for the Memorial of Mexico and to 3 November 2003 for the Counter-Memorial of the United States. The Memorial was filed within the time-limit thus extended.

Public hearings were held from 15 to 19 December 2003. At the conclusion of those hearings the Parties presented the following final submissions to the Court:

For Mexico:

> "The Government of Mexico respectfully requests the Court to adjudge and declare:
>
> (1) that the United States of America, in arresting, detaining, trying, convicting, and sentencing the 52 Mexican nationals on death row described in Mexico's Memorial, violated its international legal obligations to Mexico, in its own right and in the exercise of its right to diplomatic protection of its nationals, by failing to inform, without delay, the 52 Mexican nationals after their arrest of their right to consular notification and access under Article 36 (1) *(b)* of the Vienna Convention on Consular Relations, and by depriving Mexico of its right to provide

consular protection and the 52 nationals' rights to receive such protection as Mexico would provide under Article 36 (1) *(a)* and *(c)* of the Convention;

(2) that the obligation in Article 36 (1) of the Vienna Convention requires notification of consular rights and a reasonable opportunity for consular access before the competent authorities of the receiving State take any action potentially detrimental to the foreign national's rights;

(3) that the United States of America violated its obligations under Article 36 (2) of the Vienna Convention by failing to provide meaningful and effective review and reconsideration of convictions and sentences impaired by a violation of Article 36 (1); by substituting for such review and reconsideration clemency proceedings; and by applying the 'procedural default' doctrine and other municipal law doctrines that fail to attach legal significance to an Article 36 (1) violation on its own terms;

(4) that pursuant to the injuries suffered by Mexico in its own right and in the exercise of diplomatic protection of its nationals, Mexico is entitled to full reparation for those injuries in the form of *restitutio in integrum*;

(5) that this restitution consists of the obligation to restore the *status quo ante* by annulling or otherwise depriving of full force or effect the convictions and sentences of all 52 Mexican nationals;

(6) that this restitution also includes the obligation to take all measures necessary to ensure that a prior violation of Article 36 shall not affect the subsequent proceedings;

(7) that to the extent that any of the 52 convictions or sentences are not annulled, the United States shall provide, by means of its own choosing, meaningful and effective review and reconsideration of the convictions and sentences of the 52 nationals, and that this obligation cannot be satisfied by means of clemency proceedings or if any municipal law rule or doctrine inconsistent with paragraph (3) above is applied; and

(8) that the United States of America shall cease its violations of Article 36 of the Vienna Convention with regard to Mexico and its 52 nationals and shall provide appropriate guarantees and assurances that it shall take measures sufficient to achieve increased compliance with Article 36 (1) and to ensure compliance with Article 36 (2)."

For the United States of America:

"On the basis of the facts and arguments made by the United States in its Counter-Memorial and in these proceedings, the Government of the United States of America requests that the Court, taking into account that the United States has conformed its conduct

> to this Court's Judgment in *LaGrand*, not only with respect to German nationals but, consistent with the declaration of the President of the Court in that case, to all detained foreign nationals, adjudge and declare that the claims of the United Mexican States are dismissed."

At a public sitting held on 31 March 2004 the Court delivered its Judgment (*I.C.J. Reports 2004*, p. 12), a summary of which is given below, followed by the text of the operative paragraph:

History of the proceedings and submissions of the Parties (paras. 1-14)

The Court begins by reciting the history of the proceedings and the submissions of the Parties as set out hereabove.

Description of the dispute and the facts (paras. 15-21)

It thereafter gives a short description of the dispute and of the facts underlying the case, and in paragraph 16 it lists by name the 52 Mexican nationals involved.

Mexican objection to the United States objections to jurisdiction and admissibility (paras. 22-25)

The Court notes at the outset that the United States has presented a number of objections to the jurisdiction of the Court, as well as to the admissibility of the claims advanced by Mexico; that it is however the contention of Mexico that all the objections raised by the United States are inadmissible as having been raised after the expiration of the time-limit laid down by Article 79, paragraph 1, of the Rules of Court as amended in 2000.

The Court notes, however, that Article 79 of the Rules applies only to preliminary objections. It observes that an objection that is not presented as a preliminary objection in accordance with paragraph 1 of Article 79 does not thereby become inadmissible; that there are of course circumstances in which the party failing to put forward an objection to jurisdiction might be held to have acquiesced in jurisdiction; that, however, apart from such circumstances, a party failing to avail itself of the Article 79 procedure may forfeit the right to bring about a suspension of the proceedings on the merits, but can still argue the objection along with the merits. The Court finds that that is indeed what the United States has done in this case; and that, for reasons to be indicated below, many of its objections are of such a nature that they would in any event probably have had to be heard along with the merits. The Court concludes that it should not exclude from consideration the objections of the United States to jurisdiction and admissibility by reason of the fact that they were not presented within three months from the date of filing of the Memorial.

United States objections to jurisdiction (paras. 26-35)

By its first jurisdictional objection, the United States suggested that the Mexican Memorial is fundamentally addressed to the treatment of Mexican nationals in the federal and state criminal justice systems of the United States, and to the operation of the United States criminal justice system as a whole; for the Court to address such issues would be an abuse of its jurisdiction. The Court recalls that its jurisdiction in the present case has been invoked under the Vienna Convention and Optional Protocol to determine the nature and extent of the obligations undertaken by the United States towards Mexico by becoming party to that Convention. If and so far as the Court may find that the obligations accepted by the parties to the Vienna Convention included commitments as to the conduct of their municipal courts in relation to the nationals of other parties, then in order to ascertain whether there have been breaches of the Convention, the Court must be able to examine the actions of those courts in the light of international law. How far it may do so in the present case is a matter for the merits; the first objection of the United States to jurisdiction cannot therefore be upheld.

The second jurisdictional objection presented by the United States was addressed to Mexico's submission "that the United States in arresting, detaining, trying, convicting, and sentencing [to death] Mexican nationals, violated its international legal obligations to Mexico, in its own right and in the exercise of its right of diplomatic protection of its nationals", as provided by Article 36 of the Vienna Convention. The United States pointed out that Article 36 of the Vienna Convention "creates no obligations constraining the rights of the United States to arrest a foreign national"; and that, similarly, the "detaining, trying, convicting and sentencing" of Mexican nationals could not constitute breaches of Article 36, which merely lays down obligations of notification. The Court observes, however, that Mexico argues that depriving a foreign national facing criminal proceedings of the right to consular notification and assistance renders those proceedings fundamentally unfair. In the Court's view that is to argue in favour of a particular interpretation of the Vienna Convention. Such an interpretation may or may not be confirmed on the merits, but is not excluded from the jurisdiction conferred on the Court by the Optional Protocol to the Vienna Convention. The second objection of the United States to jurisdiction cannot therefore be upheld.

The third objection by the United States to the jurisdiction of the Court refers to the first submission concerning remedies in the Mexican Memorial, namely that Mexico is entitled to *restitutio in integrum*, and that the United States therefore is under an obligation to restore the *status quo ante*. The United States objects that this would intrude deeply into the independence of its courts; and that for the Court to declare that the United States is under a specific obligation to vacate convictions and sentences would be beyond its jurisdiction. The Court recalls in this regard, as it did in the *LaGrand* case, that, where jurisdiction exists over a dispute on a particular matter, no separate basis for jurisdiction is required by the Court in order to consider the remedies a party has requested for the breach of the obligation (*I.C.J. Reports 2001*, p. 485, para. 48). Whether or how far the Court may order the remedy requested by Mexico are matters to be determined as part of the merits of the dispute; the third objection of the United States to jurisdiction cannot therefore be upheld.

The fourth and last jurisdictional objection of the United States is that, contrary to the contentions of Mexico, "the Court lacks jurisdiction to determine whether or not consular notification is a 'human right', or to declare fundamental requirements of substantive or procedural due process". The Court observes that Mexico has presented this argument as being a matter of interpretation of Article 36, paragraph 1 (*b*), and therefore belonging to the merits. The Court considers that this is indeed a question of interpretation of the Vienna Convention, for which it has jurisdiction; the fourth objection of the United States to jurisdiction cannot therefore be upheld.

United States objections to admissibility (paras. 36-47)

The Court notes that the first objection of the United States under this head is that "Mexico's submissions should be found inadmissible because they seek to have this Court function as a court of criminal appeal"; that there is, in the view of the United States, "no other apt characterization of Mexico's two submissions in respect of remedies". The Court observes that this contention is addressed solely to the question of remedies. The United States does not contend on this ground that the Court should decline jurisdiction to enquire into the question of breaches of the Vienna Convention at all, but simply that, if such breaches are shown, the Court should do no more than decide that the United States must provide "review and reconsideration" along the lines indicated in the Judgment in the *LaGrand* case (*I.C.J. Reports 2001*, pp. 513-514, para. 125). The Court notes that this is a matter of merits; the first objection of the United States to admissibility cannot therefore be upheld.

The Court then turns to the objection of the United States based on the rule of exhaustion of local remedies. The United States contends that the Court "should find inadmissible Mexico's claim to exercise its right of diplomatic protection on behalf of any Mexican national who has failed to meet the customary legal requirement of exhaustion of municipal remedies". The Court recalls that in its final submissions Mexico asks the Court to adjudge and declare that the United States, in failing to comply with Article 36, paragraph 1, of the Vienna Convention, has "violated its international legal obligations to Mexico, in its own right and in the exercise of its right of diplomatic protection of its nationals". The Court observes that the individual rights of Mexican nationals under subparagraph 1 (*b*) of Article 36 of the Vienna Convention are rights which are to be asserted, at any rate in the first place, within the domestic legal system of the United States. Only when that process is completed and local remedies are exhausted would Mexico be entitled to espouse the individual claims of its nationals through the procedure of diplomatic protection. In the present case Mexico does not, however, claim to be acting solely on that basis. It also asserts its own claims, basing them on the injury which it contends that *it has itself suffered, directly and through its nationals*, as a result of the violation by the United States of the obligations incumbent upon it under Article 36, paragraph 1 *(a)*, *(b)* and *(c)*. The Court finds that, in these special circumstances of interdependence of the rights of the State and of individual rights, Mexico may, in submitting a claim in its own name, request the Court to rule on the violation of rights which it claims to have suffered both directly and through the violation of individual rights conferred on Mexican nationals under Article 36, paragraph 1 *(b)*. The duty to exhaust local remedies does not apply to such a request. The Court accordingly finds that the second objection by the United States to admissibility cannot be upheld.

The Court then turns to the question of the alleged dual nationality of certain of the Mexican nationals the subject of Mexico's claims. The United States contends that in its Memorial Mexico had failed to establish that it may exercise diplomatic protection based on breaches of Mexico's rights under the Vienna Convention with respect to those of its nationals who are also nationals of the United States. The Court recalls, however, that Mexico, in addition to seeking to exercise diplomatic protection of its nationals, is making a claim in its own right on the basis of the alleged breaches by the United States of Article 36 of the Vienna Convention. Seen from this standpoint, the question of dual nationality is not one of admissibility, but of merits. Without prejudice to the outcome of such examination, the third objection of the United States to admissibility cannot therefore be upheld.

The Court then turns to the fourth objection advanced by the United States to the admissibility of Mexico's claims: the contention that

> "The Court should not permit Mexico to pursue a claim against the United States with respect to any individual case where Mexico had actual knowledge of a breach of the [Vienna Convention] but failed to bring such breach to the attention of the United States or did so only after considerable delay."

The Court recalls that in the case of *Certain Phosphate Lands in Nauru (Nauru v. Australia)*, it observed that "delay on the part of a claimant State may render an application inadmissible", but that "international law does not lay down any specific time-limit in that regard" (*I.C.J. Reports 1992*, pp. 253-254, para. 32). It notes that in that case it had recognized that delay might prejudice the respondent State, but finds that there has been no suggestion of any such risk of prejudice in the present case. So far as inadmissibility might be based on an implied waiver of rights, the Court considers that only a much more prolonged and consistent inaction on the part of Mexico than any that the United States has alleged might be interpreted as implying such a waiver. The Court notes, furthermore, that Mexico indicated a number of ways in which it brought to the attention of the United States the breaches which it perceived of the Vienna Convention; the fourth objection of the United States to admissibility cannot therefore be upheld.

The Court finally examines the objection of the United States that the claim of Mexico is inadmissible in that Mexico should not be allowed to invoke against the United States standards that Mexico does not follow in its own practice. The Court recalls in this respect that it is essential to have in mind the nature of the Vienna Convention. That Convention lays down certain standards to be observed by all States parties, with a view to the "unimpeded conduct of consular relations". Even if it were shown, therefore, that Mexico's practice as regards the application of Article 36 was not beyond reproach, this would not constitute a ground of objection to the admissibility of Mexico's claim; the fifth objection of the United States to admissibility cannot therefore be upheld.

Claims on the merits (paras. 48-150)

The Court then turns to the merits of Mexico's claims.

Article 36, paragraph 1, of the Vienna Convention (paras. 49-106)

The Court notes that in the first of its final submissions, Mexico asks the Court to adjudge and declare that,

> "the United States of America, in arresting, detaining, trying, convicting, and sentencing the 52 Mexican nationals on death row described in Mexico's Memorial, violated its international legal obligations to Mexico, in its own right and in the exercise of its right to diplomatic protection of its nationals, by failing to inform, without delay, the 52 Mexican nationals after their arrest of their right to consular notification and access under Article 36 (1) *(b)* of the Vienna Convention on Consular Relations, and by depriving Mexico of its right to provide consular protection and the 52 nationals' right to receive such protection as Mexico would provide under Article 36 (1) *(a)* and *(c)* of the Convention".

It recalls that it has already in its Judgment in the *LaGrand* case described Article 36, paragraph 1, as "an interrelated régime designed to facilitate the implementation of the system of consular protection" (*I.C.J. Reports 2001*, p. 492, para. 74). After citing the full text of the paragraph, the Court observes that the United States as the receiving State does not deny its duty to perform the obligations indicated therein. However, it claims that those obligations apply only to individuals shown to be of Mexican nationality alone, and not to those of dual Mexican-United States nationality. The United States further contends *inter alia* that it has not committed any breach of Article 36, paragraph 1 *(b)*, upon the proper interpretation of "without delay" as used in that subparagraph.

Article 36, paragraph 1 (b) (paras. 52-90)

The Court finds that thus two major issues under Article 36, paragraph 1 *(b)*, are in dispute between the Parties: first, the question of the nationality of the individuals concerned; and second, the question of the meaning to be given to the expression "without delay".

Nationality of the individuals concerned (paras. 53-57)

The Court begins by noting that the Parties disagree as to what each of them must show as regards nationality in connection with the applicability of the terms of Article 36, paragraph 1, and as to how the principles of evidence have been met on the facts of the cases.

The Court finds that it is for Mexico to show that the 52 persons listed in paragraph 16 of the Judgment held Mexican nationality at the time of their arrest. It notes that to this end Mexico has produced birth certificates and declarations of nationality, whose contents have not been challenged by the United States. The Court observes further that the United States has questioned whether some of these individuals were not also United States nationals. The Court takes the view that it was for the United States to demonstrate that this was so and to furnish the Court with all information on the matter in its possession. In so far as relevant data on that matter are said by the United States to lie within the knowledge of Mexico, it was for the United States to have sought that information from the Mexican authorities. The Court finds that, at no stage, however, has the United States shown the Court that it made specific enquiries of those authorities about particular cases and that responses were not forthcoming. The Court accordingly concludes that the United States has not met its burden of proof in its attempt to show that persons of Mexican nationality were also United States nationals. The Court therefore finds that, as regards the 52 persons listed in paragraph 16 of the Judgment, the United States had obligations under Article 36, paragraph 1 *(b)*.

Requirement to inform "without delay" (paras. 58-90)

The Court continues by noting that Mexico, in its second final submission, asks the Court to find that

> "the obligation in Article 36, paragraph 1, of the Vienna Convention requires notification of consular rights and a reasonable opportunity for consular access before the competent authorities of the receiving State take any action potentially detrimental to the foreign national's rights".

The Court notes that Mexico contends that, in each of the 52 cases before the Court, the United States failed to provide the arrested persons with information as to their rights under Article 36, paragraph 1 *(b)*, "without delay". It further notes that the United States disputes both the facts as presented by Mexico and the legal analysis of Article 36, paragraph 1 *(b)*, of the Vienna Convention offered by Mexico.

The Court first turns to the interpretation of Article 36, paragraph 1 *(b)*, having found that it is applicable to the 52 persons listed in paragraph 16 of the Judgment. It begins by noting that Article 36, paragraph 1 *(b)*, contains three separate but interrelated elements: the right of the individual concerned to be informed without delay of his rights under Article 36, paragraph 1 *(b)*; the right of the consular post to be notified without delay of the individual's detention, if he so requests; and the obligation of the receiving State to forward without delay any communication addressed to the consular post by the detained person (this last element not having been raised in the case).

Beginning with the right of an arrested individual to information, the Court finds that the duty upon the arresting authorities to give the Article 36, paragraph 1 *(b)*, information to the individual arises once it is realized that the person is a foreign national, or once there are grounds to think that the person is probably a foreign national. Precisely when this may occur will vary with circumstances.

Bearing in mind the complexities of establishing such a fact as explained by the United States, the Court begins by examining the application of Article 36, paragraph 1 *(b)*, of the Vienna Convention to the 52 cases. In 45 of these cases, it finds that it has no evidence that the arrested persons claimed United States nationality, or were reasonably thought to be United States nationals, with specific enquiries being made in timely fashion to verify such dual nationality. It notes, however, that seven persons are asserted by the United States to have stated at the time of arrest that they were United States citizens.

After examination of those seven cases the Court concludes that Mexico has failed to prove the violation by the United States of its obligations under Article 36, paragraph 1 *(b)*, in only one of these. As regards the other individuals who are alleged to have claimed United States nationality on arrest, the Court finds that the argument of the United States cannot be upheld.

The Court points out that the question nonetheless remains as to whether, in each of these 51 cases, the United States did provide the required information to the arrested persons "without delay". It is to that question that the Court then turns. The Court notes that in 47 cases the United States nowhere challenges the fact that the Mexican nationals were never informed of their rights under Article 36, paragraph 1 *(b)*, but that in four cases some doubt remains whether the information that was given was provided "without delay"; for these, some examination of the term is thus necessary.

The Court notes that the Parties have very different views on this. According to Mexico, the timing of the notice to the detained person "is critical to the exercise of the rights provided by Article 36" and the phrase "without delay" in paragraph 1 *(b)* requires "unqualified immediacy". Mexico further contends that, in view of the object and purpose of Article 36, which is to enable "meaningful consular assistance" and the safeguarding of the vulnerability of foreign nationals in custody,

> "consular notification . . . must occur immediately upon detention and prior to any interrogation of the foreign detainee, so that the consul may offer useful advice about the foreign legal system and provide assistance in obtaining counsel before the foreign national makes any ill-informed decisions or the State takes any action potentially prejudicial to his rights".

The United States disputed this interpretation of the phrase "without delay". In its view it did not mean "immediately, and before interrogation" and such an understanding was supported neither by the terminology, nor by the object and purpose of the Vienna Convention, nor by its *travaux préparatoires*. According to the United States, the purpose of Article 36 was to facilitate the exercise of consular functions by a consular officer:

> "The significance of giving consular information to a national is thus limited . . . It is a procedural device that allows the foreign national to trigger the related process of notification . . . [It] cannot possibly be fundamental to the criminal justice process."

The Court begins by noting that the precise meaning of "without delay", as it is to be understood in Article 36, paragraph 1 *(b)*, is not defined in the Convention. This phrase therefore requires interpretation according to the customary rules of treaty interpretation reflected in Articles 31 and 32 of the Vienna Convention on the Law of Treaties. After examination of the text of the Vienna Convention on Consular Relations, its object and purpose, as well as its *travaux préparatoires*, the Court finds that "without delay" is not necessarily to be interpreted as "immediately" upon arrest, nor can it be interpreted to signify that the provision of the information must necessarily precede any interrogation, so that the commencement of interrogation before the information is given would be a breach of Article 36. The Court observes, however, that there is nonetheless a duty upon the arresting authorities to give the information to an arrested person as soon as it is realized that the person is a foreign national, or once there are grounds to think that the person is probably a foreign national.

Applying this interpretation of "without delay" to the facts of the four outstanding cases, the Court finds that the United States was in breach of its obligations under Article 36, paragraph 1 *(b)*, in respect of these individuals also. The Court accordingly concludes that, with respect to all save one of the 52 individuals listed in paragraph 16 of the Judgment, the United States has violated its obligation under Article 36, paragraph 1 *(b)*, of the Vienna Convention to provide information to the arrested person.

Article 36, paragraph 1 (a) *and* (c) (paras. 91-106)

The Court begins by recalling its observation above that Article 36, paragraph 1 *(b)*, contains three elements. Thus far, it observes, it has been dealing with the right of an arrested person to be informed that he may ask for his consular post to be notified. The Court then turns to another aspect of Article 36, paragraph 1 *(b)*. It finds the United States is correct in observing that the fact that a Mexican consular post was not notified under Article 36, paragraph 1 *(b)*, does not of necessity show that the arrested person was not informed of his rights under that provision. He may have been informed and declined to have his consular post notified. The Court finds in one of the two cases mentioned by the United States in this respect that that was the case. In two of three further cases in which the United States alleges that the consular post was formally notified without prior information to the individual, the Court finds that the United States did violate its obligations under Article 36, paragraph 1 *(b)*.

The Court notes that, in the first of its final submissions, Mexico also asks the Court to find that the violations it ascribes to the United States in respect of Article 36, paragraph 1 *(b)*, have also deprived "Mexico of its right to provide consular protection and the 52 nationals' right to receive such protection as Mexico would provide under Article 36 (1) *(a)* and *(c)* of the Convention".

The Court recalls that the relationship between the three subparagraphs of Article 36, paragraph 1, has been described by it in its Judgment in the *LaGrand* case (*I.C.J. Reports 2001*, p. 492, para. 74) as "an interrelated régime". The legal conclusions to be drawn from that interrelationship necessarily depend upon the facts of each case. In the *LaGrand* case, the Court found that the failure for 16 years to inform the brothers of their right to have their consul notified effectively prevented the exercise of other rights that Germany might have chosen to exercise under subparagraphs *(a)* and *(c)*. The Court is of the view that it is necessary to revisit the interrelationship of the three subparagraphs of Article 36, paragraph 1, in the light of the particular facts and circumstances of the present case.

It first recalls that, in one case, when the defendant was informed of his rights, he declined to have his consular post notified. Thus in this case there was no violation of either subparagraph *(a)* or subparagraph *(c)* of Article 36, paragraph 1.

In the remaining cases, because of the failure of the United States to act in conformity with Article 36, paragraph 1 *(b)*, Mexico was in effect precluded (in some cases totally, and in some cases for prolonged periods of time) from exercising its right under paragraph 1 *(a)* to communicate with its nationals and have access to them. As the Court has already had occasion to explain, it is immaterial whether Mexico would have offered consular assistance, "or whether a different verdict would have been rendered. It is sufficient that the Convention conferred these rights" (*I.C.J. Reports 2001*, p. 492, para. 74), which might have been acted upon

The Court observes that the same is true, *pari passu*, of certain rights identified in subparagraph *(c)*: "consular officers shall have the right to visit a national of the sending State who is in prison, custody or detention, and to converse and correspond with him . . .". Mexico, it notes, laid much emphasis in this litigation upon the importance of consular officers being able to arrange for such representation before and during trial, and especially at sentencing, in cases in which a severe penalty may be imposed. Mexico has further indicated the importance of any financial or other assistance that consular officers may provide to defence counsel, *inter alia* for investigation of the defendant's family background and mental condition, when such information is relevant to the case. The Court observes that the exercise of the rights of the sending State under Article 36, paragraph 1 *(c)*, depends upon notification by the authorities of the receiving State. It may be, however, that information drawn to the attention of the sending State by other means may still enable its consular officers to assist in arranging legal representation for its national. The Court finds that has been so in 13 cases.

The Court concludes on this aspect of the case in paragraph 106 of the Judgment, where it summarizes its findings as to the violation of the different obligations incumbent upon the United States under Article 36, paragraph 1, in the cases before it.

Article 36, paragraph 2, of the Vienna Convention (paras. 107-114)

The Court then recalls that in its third final submission Mexico asks the Court to adjudge and declare that

> "the United States violated its obligations under Article 36 (2) of the Vienna Convention by failing to provide meaningful and effective review and reconsideration of convictions and sentences impaired by a violation of Article 36 (1)".

More specifically, Mexico contends that:

> "The United States uses several municipal legal doctrines to prevent finding any legal effect from the violations of Article 36. *First*, despite this Court's clear analysis in *LaGrand*, US courts, at both the state and federal level, continue to invoke default doctrines to bar any review of Article 36 violations – even when the national had been unaware of his rights to consular notification and communication and thus his ability to raise their violation as an issue at trial, due to the competent authorities' failure to comply with Article 36."

Against this contention by Mexico, the United States argues that:

> "the criminal justice systems of the United States address all errors in process through both judicial and executive clemency proceedings, relying upon the latter when rules of default have closed out the possibility of the former. That is, the 'laws and regulations' of the

> United States provide for the correction of mistakes that may be relevant to a criminal defendant to occur through a combination of judicial review and clemency. These processes together, working with other competent authorities, give full effect to the purposes for which Article 36 (1) is intended, in conformity with Article 36 (2). And, in so far as a breach of Article 36 (1) has occurred, these procedures satisfy the remedial function of Article 36 (2) by allowing the United States to provide review and reconsideration of convictions and sentences consistent with *LaGrand*."

The Court observes that it has already considered the application of the so called "procedural default" rule in the *LaGrand* case, when the Court addressed the issue of its implications for the application of Article 36, paragraph 2, of the Vienna Convention. The Court emphasized that "a distinction must be drawn between that rule as such and its specific application in the present case" stating:

> "In itself, the rule does not violate Article 36 of the Vienna Convention. The problem arises when the procedural default rule does not allow the detained individual to challenge a conviction and sentence by claiming, in reliance on Article 36, paragraph 1, of the Convention, that the competent national authorities failed to comply with their obligation to provide the requisite consular information 'without delay', thus preventing the person from seeking and obtaining consular assistance from the sending State." (*I.C.J. Reports 2001*, p. 497, para. 90.)

On this basis, the Court concluded that "the procedural default rule prevented counsel for the LaGrands to effectively challenge their convictions and sentences other than on United States constitutional grounds" (*ibid.*, para. 91). The Court deems this statement to be equally valid in relation to the present case, where a number of Mexican nationals have been placed exactly in such a situation.

The Court further observes that the procedural default rule has not been revised, nor has any provision been made to prevent its application in cases where it has been the failure of the United States itself to inform that may have precluded counsel from being in a position to have raised the question of a violation of the Vienna Convention in the initial trial. The Court notes moreover that in several of the cases cited in Mexico's final submissions the procedural default rule has already been applied, and that in others it could be applied at subsequent stages in the proceedings. It also points out, however, that in none of the cases, save for the three mentioned below, have the criminal proceedings against the Mexican nationals concerned already reached a stage at which there is no further possibility of judicial re-examination of those cases; that is to say, all possibility is not yet excluded of "review and reconsideration" of conviction and sentence, as called for in the *LaGrand* case, and as explained in subsequent paragraphs of the Judgment. The Court finds that it would therefore be premature for the Court to conclude at this stage that, in those cases, there is already a violation of the obligations under Article 36, paragraph 2, of the Vienna Convention.

By contrast, the Court notes that in the case of three named Mexican nationals, conviction and sentence have become final. Moreover, in one of these cases, the Oklahoma Court of Criminal Appeals has set an execution date. The Court finds therefore that it must conclude that, subject to its observations below in regard to clemency proceedings, in relation to these three individuals, the United States is in breach of its obligations under Article 36, paragraph 2, of the Vienna Convention.

Legal consequences of the breach (paras. 115-150)

Having concluded that in most of the cases brought before the Court by Mexico in the 52 instances, there has been a failure to observe the obligations prescribed by Article 36, paragraph 1 *(b)*, of the Vienna Convention, the Court proceeds to the examination of the legal consequences of such a breach and of the legal remedies therefor.

It recalls that Mexico in its fourth, fifth and sixth submissions asks the Court to adjudge and declare:

> "(4) that pursuant to the injuries suffered by Mexico in its own right and in the exercise of diplomatic protection of its nationals, Mexico is entitled to full reparation for these injuries in the form of *restitutio in integrum*;
>
> (5) that this restitution consists of the obligation to restore the *status quo ante* by annulling or otherwise depriving of full force or effect the conviction and sentences of all 52 Mexican nationals; [and]
>
> (6) that this restitution also includes the obligation to take all measures necessary to ensure that a prior violation of Article 36 shall not affect the subsequent proceedings."

The United States on the other hand argues:

> "*LaGrand*'s holding calls for the United States to provide, in each case, 'review and reconsideration' that 'takes account of' the violation, not 'review and reversal', not across-the-board exclusions of evidence or nullification of convictions simply because a breach of Article 36 (1) occurred and without regard to its effect upon the conviction and sentence and, not . . . 'a precise, concrete, stated result: to re-establish the *status quo ante*' ".

The Court points out that its task in the present case is to determine what would be adequate reparation for the violations of Article 36. The Court finds it to be clear from what has been observed above that the internationally wrongful acts committed by the United States were the failure of its competent authorities to inform the Mexican nationals concerned, to notify Mexican consular posts and to enable Mexico to provide consular assistance. It is of the view that it follows that the remedy to make good these violations should consist in an obligation on the United States to permit review and reconsideration of these nationals' cases by the United States courts, with a view to ascertaining whether in each case the violation of Article 36 committed by the competent authorities caused actual prejudice to the defendant in the process of administration of criminal justice.

The Court considers that it is not to be presumed, as Mexico asserts, that partial or total annulment of conviction or sentence provides the necessary and sole remedy. In the present case it is not the convictions and sentences of the Mexican nationals which are to be regarded as a violation of international law, but solely certain breaches of treaty obligations which preceded them. Mexico, the Court notes, has further contended that the right to consular notification and consular communication under the Vienna Convention is a human right of such a fundamental nature that its infringement will *ipso facto* produce the effect of vitiating the entire process of the criminal proceedings conducted in violation of this fundamental right. The Court observes that the question of whether or not the Vienna Convention rights are human rights is not a matter that it need decide. It points out, however, that neither the text nor the object and purpose of the Convention, nor any indication in the *travaux préparatoires*, support the conclusion that Mexico draws from its contention in that regard. The Court finds that for these reasons, Mexico's fourth and fifth submissions cannot be upheld.

In elaboration of its sixth submission, Mexico contends that

> "As an aspect of *restitutio in integrum*, Mexico is also entitled to an order that in any subsequent criminal proceedings against the nationals, statements and confessions obtained prior to notification to the national of his right to consular assistance be excluded."

The Court is of the view that this question is one which has to be examined under the concrete circumstances of each case by the United States courts concerned in the process of their review and reconsideration. For this reason, the sixth submission of Mexico cannot be upheld.

Although rejecting the fourth, fifth and sixth submissions of Mexico relating to the remedies for the breaches by the United States of its international obligations under Article 36 of the Vienna Convention, the Court points out that the fact remains that such breaches have been committed, and that it is thus incumbent upon the Court to specify what remedies are required in order to redress the injury done to Mexico and to its nationals by the United States through non-compliance with those international obligations.

In this regard, the Court recalls that Mexico's seventh submission also asks the Court to adjudge and declare:

> "that to the extent that any of the 52 convictions or sentences are not annulled, the United States shall provide, by means of its

> own choosing, meaningful and effective review and reconsideration of the convictions and sentences of the 52 nationals, and that this obligation cannot be satisfied by means of clemency proceedings or if any municipal law rule or doctrine [that fails to attach legal significance to an Article 36 (1) violation] is applied."

On this question of "review and reconsideration", the United States takes the position that it has conformed its conduct to the *LaGrand* Judgment. In a further elaboration of this point, the United States argues that "[t]he Court said in *LaGrand* that the choice of means for allowing the review and reconsideration it called for 'must be left' to the United States".

The Court points out that, in stating in its Judgment in the *LaGrand* case that "the United States of America, *by means of its own choosing*, shall allow the review and reconsideration of the conviction and sentence" (*I.C.J. Reports 2001*, p. 516, para. 128; emphasis added), the Court acknowledged that the concrete modalities for such review and reconsideration should be left primarily to the United States. It should be underlined, however, that this freedom in the choice of means for such review and reconsideration is not without qualification: as the passage of the Judgment quoted above makes abundantly clear, such review and reconsideration has to be carried out "by taking account of the violation of the rights set forth in the Convention" (*I.C.J. Reports 2001*, p. 514, para. 125), including, in particular, the question of the legal consequences of the violation upon the criminal proceedings that have followed the violation.

The Court observes that the current situation in the United States criminal procedure, as explained by the Agent at the hearings, is such that a claim based on the violation of Article 36, paragraph 1, of the Vienna Convention, however meritorious in itself, could be barred in the courts of the United States by the operation of the procedural default rule. The Court is of the view that the crucial point in this situation is that, by the operation of the procedural default rule as it is applied at present, the defendant is effectively limited to seeking the vindication of his rights under the United States Constitution.

The Court takes note in this regard that Mexico, in the latter part of its seventh submission, has stated that "this obligation [of providing review and reconsideration] cannot be satisfied by means of clemency proceedings". Furthermore, Mexico argues that the clemency process is in itself an ineffective remedy to satisfy the international obligations of the United States. It concludes: "clemency review is standardless, secretive, and immune from judicial oversight".

Against this contention of Mexico, the United States claims that it "gives 'full effect' to the 'purposes for which the rights accorded under [Article 36, paragraph 1,] are intended' through executive clemency". It argues that "[t]he clemency process is well suited to the task of providing review and reconsideration". The United States explains that, "Clemency . . . is more than a matter of grace; it is part of the overall scheme for ensuring justice and fairness in the legal process" and that "Clemency procedures are an integral part of the existing 'laws and regulations' of the United States through which errors are addressed".

The Court emphasizes that the "review and reconsideration" prescribed by it in the *LaGrand* case should be effective. Thus it should "tak[e] account of the violation of the rights set forth in [the] Convention" (*I.C.J. Reports 2001*, p. 516, para. 128 (7)) and guarantee that the violation and the possible prejudice caused by that violation will be fully examined and taken into account in the review and reconsideration process. Lastly, review and reconsideration should be both of the sentence and of the conviction.

Accordingly, in a situation of the violation of rights under Article 36, paragraph 1, of the Vienna Convention, the defendant raises his claim in this respect not as a case of "harm to a particular right essential to a fair trial" – a concept relevant to the enjoyment of due process rights under the United States Constitution – but as a case involving the infringement of his rights under Article 36, paragraph 1. The rights guaranteed under the Vienna Convention are treaty rights which the United States has undertaken to comply with in relation to the individual concerned, irrespective of the due process rights under United States constitutional law. The Court is of the view that, in cases where the breach of the individual rights of Mexican nationals under Article 36, paragraph 1 *(b)*, of the Convention has resulted, in the sequence of judicial proceedings that has followed, in the individuals concerned being subjected to prolonged detention or convicted and sentenced to severe penalties, the legal consequences of this breach have to be examined and taken into account in the course of review and reconsideration. The Court considers that it is the judicial process that is suited to this task.

As regards the clemency procedure, the Court points out what is at issue in the present case is whether the clemency process as practised within the criminal justice systems of different states in the United States can, in and of itself, qualify as an appropriate means for undertaking the effective "review and reconsideration of the conviction and sentence by taking account of the violation of the rights set forth in the Convention", as the Court prescribed in the *LaGrand* Judgment (*I.C.J. Reports 2001*, p. 514, para. 125). The Court notes that the clemency process, as currently practised within the United States criminal justice system, does not appear to meet the above-mentioned requirements and that it is therefore not sufficient in itself to serve as an appropriate means of "review and reconsideration" as envisaged by the Court in the *LaGrand* case.

Finally, the Court considers the eighth submission of Mexico, in which it asks the Court to adjudge and declare:

> "That the [United States] shall cease its violations of Article 36 of the Vienna Convention with regard to Mexico and its 52 nationals and shall provide appropriate guarantees and assurances that it

> shall take measures sufficient to achieve increased compliance with Article 36 (1) and to ensure compliance with Article 36 (2)."

The Court recalls that Mexico, although recognizing the efforts by the United States to raise awareness of consular assistance rights, notes with regret that "the United States programme, whatever its components, has proven ineffective to prevent the regular and continuing violation by its competent authorities of consular notification and assistance rights guaranteed by Article 36". It also recalls that the United States contradicts this contention of Mexico by claiming that "its efforts to improve the conveyance of information about consular notification are continuing unabated and are achieving tangible results". It contends that Mexico "fails to establish a 'regular and continuing' pattern of breaches of Article 36 in the wake of *LaGrand*".

Referring to the fact that the Mexican request for guarantees of non-repetition is based on its contention that beyond 52 cases there is a "regular and continuing pattern of breaches by the United States of Article 36", the Court observes that, in this respect, there is no evidence properly before it that would establish a general pattern. While it is a matter of concern that, even in the wake of the *LaGrand* Judgment, there remain a substantial number of cases of failure to carry out the obligation to furnish consular information to Mexican nationals. The Court notes that the United States has been making considerable efforts to ensure that its law enforcement authorities provide consular information to every arrested person they know or have reason to believe is a foreign national. The Court further notes in this regard that in the *LaGrand* case Germany sought, *inter alia*, "a straightforward assurance that the United States will not repeat its unlawful acts" (*I.C.J. Reports 2001*, p. 511, para. 120). With regard to this general demand for an assurance of non-repetition, the Court stated:

> "If a State, in proceedings before this Court, repeatedly refers to substantial activities which it is carrying out in order to achieve compliance with certain obligations under a treaty, then this expresses a commitment to follow through with the efforts in this regard. The programme in question certainly cannot provide an assurance that there will never again be a failure by the United States to observe the obligations of notification under Article 36 of the Vienna Convention. But no State could give such a guarantee and Germany does not seek it. The Court considers that the commitment expressed by the United States to ensure implementation of the specific measures adopted in performance of its obligations under Article 36, paragraph 1 *(b)*, must be regarded as meeting Germany's request for a general assurance of non-repetition." (*I.C.J. Reports 2001*, pp. 512-513, para. 124.)

The Court believes that as far as the request of Mexico for guarantees and assurances of non-repetition is concerned, what the Court stated in this passage of the *LaGrand* Judgment remains applicable, and therefore meets that request.

Non-application of any a contrario *argument in respect of the Court's findings* (para. 151)

The Court then re-emphasizes a point of importance. It points out that in the present case it has been addressing the issues of principle raised in the course of the present proceedings from the viewpoint of the general application of the Vienna Convention, and there can be no question of making an *a contrario* argument in respect of any of the Court's findings in the present Judgment. In other words, the fact that in this case the Court's ruling has concerned only Mexican nationals cannot be taken to imply that the conclusions reached by it in the present Judgment do not apply to other foreign nationals finding themselves in similar situations in the United States.

Order of 5 February 2003 (para. 152)

The Court finally points out that its Order of 5 February 2003 indicating provisional measures mentioned above, according to its terms and to Article 41 of the Statute, was effective pending final judgment, and that the obligations of the United States in that respect are, with effect from the date of the Judgment, replaced by those declared in this Judgment. The Court observes that it has found in relation to the three persons concerned in the Order (among others), that the United States has committed breaches of its obligations under Article 36, paragraph 1, of the Vienna Convention; and that moreover, in respect of those three persons alone, the United States has also committed breaches of Article 36, paragraph 2. The review and reconsideration of conviction and sentence required by Article 36, paragraph 2, which is the appropriate remedy for breaches of Article 36, paragraph 1, has not been carried out. The Court considers that in these three cases it is for the United States to find an appropriate remedy having the nature of review and reconsideration according to the criteria indicated in the Judgment.

*

Operative paragraph (para. 153)

> "For these reasons,
>
> THE COURT,
>
> (1) By thirteen votes to two,
>
> *Rejects* the objection by the United Mexican States to the admissibility of the objections presented by the United States of America to the jurisdiction of the Court and the admissibility of the Mexican claims;
>
> IN FAVOUR: *President* Shi; *Vice-President* Ranjeva; *Judges* Guillaume,

Koroma, Vereshchetin, Higgins, Kooijmans, Rezek, Al-Khasawneh, Buergenthal, Elaraby, Owada, Tomka;

AGAINST: *Judge* Parra-Aranguren; *Judge* ad hoc Sepúlveda;

(2) Unanimously,

Rejects the four objections by the United States of America to the jurisdiction of the Court;

(3) Unanimously,

Rejects the five objections by the United States of America to the admissibility of the claims of the United Mexican States;

(4) By fourteen votes to one,

Finds that, by not informing, without delay upon their detention, the 51 Mexican nationals referred to in paragraph 106 (1) above of their rights under Article 36, paragraph 1 (*b*), of the Vienna Convention on Consular Relations of 24 April 1963, the United States of America breached the obligations incumbent upon it under that subparagraph;

IN FAVOUR: *President* Shi; *Vice-President* Ranjeva; *Judges* Guillaume, Koroma, Vereshchetin, Higgins, Kooijmans, Rezek, Al-Khasawneh, Buergenthal, Elaraby, Owada, Tomka; *Judge* ad hoc Sepúlveda;

AGAINST: *Judge* Parra-Aranguren;

(5) By fourteen votes to one,

Finds that, by not notifying the appropriate Mexican consular post without delay of the detention of the 49 Mexican nationals referred to in paragraph 106 (2) above and thereby depriving the United Mexican States of the right, in a timely fashion, to render the assistance provided for by the Vienna Convention to the individuals concerned, the United States of America breached the obligations incumbent upon it under Article 36, paragraph 1 (*b*);

IN FAVOUR: *President* Shi; *Vice-President* Ranjeva; *Judges* Guillaume, Koroma, Vereshchetin, Higgins, Kooijmans, Rezek, Al-Khasawneh, Buergenthal, Elaraby, Owada, Tomka; *Judge* ad hoc Sepúlveda;

AGAINST: *Judge* Parra-Aranguren;

(6) By fourteen votes to one,

Finds that, in relation to the 49 Mexican nationals referred to in paragraph 106 (3) above, the United States of America deprived the United Mexican States of the right, in a timely fashion, to communicate with and have access to those nationals and to visit them in detention, and thereby breached the obligations incumbent upon it under Article 36, paragraph 1 (*a*) and (*c*), of the Convention;

IN FAVOUR: President Shi; *Vice-President* Ranjeva; *Judges* Guillaume, Koroma, Vereshchetin, Higgins, Kooijmans, Rezek, Al-Khasawneh, Buergenthal, Elaraby, Owada, Tomka; *Judge* ad hoc Sepúlveda;

AGAINST: *Judge* Parra-Aranguren;

(7) By fourteen votes to one,

Finds that, in relation to the 34 Mexican nationals referred to in paragraph 106 (4) above, the United States of America deprived the United Mexican States of the right, in a timely fashion, to arrange for legal representation of those nationals, and thereby breached the obligations incumbent upon it under Article 36, paragraph 1 *(c)*, of the Convention;

IN FAVOUR: *President* Shi; *Vice-President* Ranjeva; *Judges* Guillaume, Koroma, Vereshchetin, Higgins, Kooijmans, Rezek, Al-Khasawneh, Buergenthal, Elaraby, Owada, Tomka; *Judge* ad hoc Sepúlveda;

AGAINST: *Judge* Parra-Aranguren;

(8) By fourteen votes to one,

Finds that, by not permitting the review and reconsideration, in the light of the rights set forth in the Convention, of the conviction and sentences of Mr. César Roberto Fierro Reyna, Mr. Roberto Moreno Ramos and Mr. Osvaldo Torres Aguilera, after the violations referred to in subparagraph (4) above had been established in respect of those individuals, the United States of America breached the obligations incumbent upon it under Article 36, paragraph 2, of the Convention;

IN FAVOUR: *President* Shi; *Vice-President* Ranjeva; *Judges* Guillaume, Koroma, Vereshchetin, Higgins, Kooijmans, Rezek, Al-Khasawneh, Buergenthal, Elaraby, Owada, Tomka; *Judge* ad hoc Sepúlveda;

AGAINST: *Judge* Parra-Aranguren;

(9) By fourteen votes to one,

Finds that the appropriate reparation in this case consists in the obligation of the United States of America to provide, by means of its own choosing, review and reconsideration of the convictions and sentences of the Mexican nationals referred to in subparagraphs (4), (5), (6) and (7) above, by taking account both of the violation of the rights set forth in Article 36 of the Convention and of paragraphs 138 to 141 of this Judgment;

IN FAVOUR: *President* Shi; *Vice-President* Ranjeva; *Judges* Guillaume, Koroma, Vereshchetin, Higgins, Kooijmans, Rezek, Al-Khasawneh, Buergenthal, Elaraby, Owada, Tomka; *Judge* ad hoc Sepúlveda;

AGAINST: *Judge* Parra-Aranguren;

(10) Unanimously,

Takes note of the commitment undertaken by the United States of America to ensure implementation of the specific measures adopted in performance of its obligations under Article 36, paragraph 1 *(b)*, of the Vienna Convention; and *finds* that this commitment must be regarded as meeting the request by the United Mexican States for guarantees and assurances of non-repetition;

(11) Unanimously,

Finds that, should Mexican nationals nonetheless be sentenced to severe penalties, without their rights under Article 36, paragraph 1 *(b)*, of the Convention having been respected, the United States of America shall provide, by means of its own choosing, review and reconsideration of the conviction and sentence, so as to allow full weight to be given to the violation of the rights set forth in the Convention, taking account of paragraphs 138 to 141 of this Judgment."

*

President Shi and Vice-President Ranjeva appended declarations to the Judgment of the Court; Judges Vereshchetin, Parra-Aranguren and Tomka and Judge *ad hoc* Sepúlveda appended separate opinions.

24. *Certain Criminal Proceedings in France (Republic of the Congo v. France)*

On 9 December 2002, the Republic of the Congo filed an Application by which it sought to institute proceedings against France seeking the annulment of the investigation and prosecution measures taken by the French judicial authorities further to a complaint for crimes against humanity and torture filed by various associations against the President of the Republic of the Congo, Mr. Denis Sassou Nguesso, the Congolese Minister of the Interior, Mr. Pierre Oba, and other individuals including General Norbert Dabira, Inspector-General of the Congolese Armed Forces. The Application further stated that, in connection with these proceedings, an investigating judge of the Meaux *tribunal de grande instance* issued a warrant for the President of the Republic of the Congo to be examined as witness.

The Republic of the Congo contended that by

> "attributing to itself universal jurisdiction in criminal matters and by arrogating to itself the power to prosecute and try the Minister of the Interior of a foreign State for crimes allegedly committed by him in connection with the exercise of his powers for the maintenance of public order in his country",

France violated "the principle that a State may not, in breach of the principle of sovereign equality among all Members of the United Nations . . . exercise its authority on the territory of another State". The Republic of the Congo further submitted that, in issuing a warrant instructing police officers to examine the President of the Republic of the

Congo as witness in the case, France violated "the criminal immunity of a foreign Head of State, an international customary rule recognized by the jurisprudence of the Court".

In its Application, the Republic of the Congo indicated that it sought to found the jurisdiction of the Court, pursuant to Article 38, paragraph 5, of the Rules of Court, "on the consent of the French Republic, which will certainly be given". In accordance with this provision, the Application by the Republic of the Congo was transmitted to the French Government and no action was taken in the proceedings.

By a letter dated 8 April 2003 and received on 11 April 2003 in the Registry, the French Republic stated that it "consent[ed] to the jurisdiction of the Court to entertain the Application pursuant to Article 38, paragraph 5". This consent made it possible to enter the case in the Court's List and to open the proceedings. In its letter, France added that its consent to the Court's jurisdiction applied strictly within the limits "of the claims formulated by the Republic of the Congo" and that

> "Article 2 of the Treaty of Co-operation signed on 1 January 1974 by the French Republic and the People's Republic of the Congo, to which the latter refers in its Application, does not constitute a basis of jurisdiction for the Court in the present case".

The Application of the Republic of the Congo was accompanied by a request for the indication of a provisional measure "seek[ing] an order for the immediate suspension of the proceedings being conducted by the investigating judge of the Meaux *Tribunal de grande instance*".

Taking into account the consent given by France and in accordance with Article 74, paragraph 3, of the Rules of Court, the President of the Court fixed 28 April 2003 as the date for the opening of the public hearings on the request for the indication of a provisional measure submitted by the Republic of the Congo.

After those hearings had been held, from 28 to 29 April 2003, the President of the Court, on 17 June 2003, read the Order (*I.C.J. Reports 2003*, p. 102), by which the Court found, by fourteen votes to one, that the circumstances, as they presented themselves to the Court, were not such as to require the exercise of its power under Article 41 of the Statute to indicate provisional measures.

Judges Koroma and Vereshchetin appended a joint separate opinion to the Order, and Judge *ad hoc* de Cara a dissenting opinion.

By an Order of 11 July 2003 (*I.C.J. Reports 2003*, p. 143), the President of the Court fixed 11 December 2003 as the time-limit for the Memorial of the Republic of the Congo and 11 May 2004 as the time-limit for the Counter-Memorial of France. The Memorial and the Counter-Memorial were duly filed within the time-limits fixed.

By an Order of 17 June 2004 (*I.C.J. Reports 2004*, p. 130), the Court, taking account of the agreement of the Parties and of the particular circumstances of the case, authorized the submission of a Reply by the Republic of the Congo and a Rejoinder by France, and fixed 10 December

2004 and 10 June 2005 as the respective time-limits for the filing of those pleadings.

25. Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore)

On 24 July 2003 Malaysia and Singapore jointly notified the Court of a Special Agreement which was signed between them on 6 February 2003 at Putrajaya and entered into force on 9 May 2003.

In Article 2 of that Special Agreement, the Parties requested the Court

> "to determine whether sovereignty over:
>
> (*a*) Pedra Branca/Pulau Batu Puteh;
> (*b*) Middle Rocks;
> (*c*) South Ledge,
>
> belongs to Malaysia or the Republic of Singapore".

In Article 6, the Parties "agree to accept the Judgment of the Court . . . as final and binding upon them".

The Parties further set out their views on the procedure to be followed.

By an Order of 1 September 2003 (*I.C.J. Reports 2003*, p. 146), the President of the Court, taking into account the provisions of Article 4 of the Special Agreement, fixed 25 March 2004 and 25 January 2005 as the respective time-limits for the filing, by each of the Parties, of a Memorial and of a Counter-Memorial. The Memorials were duly filed within the time-limit fixed.

B. REQUEST FOR ADVISORY OPINION

Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory

On 8 December 2003, the General Assembly of the United Nations adopted resolution A/RES/ES-10/14 (A/ES-10/L.16) in which, referring to Article 65 of the Statute of the Court, it requested the International Court of Justice to "urgently render an advisory opinion on the following question:

> "What are the legal consequences arising from the construction of the wall being built by Israel, the occupying Power, in the Occupied Palestinian Territory, including in and around East Jerusalem, as described in the report of the Secretary-General, considering the rules and principles of international law, including the Fourth Geneva Convention of 1949, and relevant Security Council and General Assembly resolutions?"

The Request for an Advisory Opinion was transmitted to the Court by the Secretary-General of the United Nations in a letter dated 8 December 2003 which was received in the Registry on 10 December 2003.

By an Order of 19 December 2003 (*I.C.J. Reports 2003*, p. 428), the Court decided that the United Nations and its Member States were likely, in accordance with Article 66, paragraph 2, of the Statute, to be able to furnish information on all aspects raised by the question submitted to the Court for an advisory opinion and fixed 30 January 2004 as the time-limit within which written statements might be submitted to it on the question in accordance with Article 66, paragraph 4, of the Statute. By the same Order, the Court further decided that, in the light of resolution ES-10/14 and the report of the Secretary-General transmitted with the request, and taking into account the fact that the General Assembly had granted Palestine a special status of observer and that the latter was co-sponsor of the draft resolution requesting the advisory opinion, Palestine might also submit a written statement on the question within the above time-limit.

By the aforesaid Order, the Court also decided, in accordance with Article 105, paragraph 4, of the Rules of Court, to hold public hearings during which oral statements and comments might be presented to it by the United Nations and its Member States, regardless of whether or not they had submitted written statements, and fixed 23 February 2004 as the date for the opening of the said hearings. By the same Order, the Court decided that, for the reasons set out above, Palestine might also take part in the hearings. Lastly, it invited the United Nations and its Member States, as well as Palestine, to inform the Registry, by 13 February 2004 at the latest, if they were intending to take part in the above-mentioned hearings. By letters of 19 December 2004, the Registrar informed them of the Court's decisions and transmitted to them a copy of the Order.

Ruling on requests submitted subsequently by the League of Arab States and the Organization of the Islamic Conference, the Court decided, in accordance with Article 66 of its Statute, that those two international organizations were likely to be able to furnish information on the question submitted to the Court, and that consequently they might for that purpose submit written statements within the time-limit fixed by the Court in its Order of 19 December 2003 and take part in the hearings.

Pursuant to Article 65, paragraph 2, of the Statute, the Secretary-General of the United Nations communicated to the Court a dossier of documents likely to throw light upon the question.

By a reasoned Order of 30 January 2004 regarding its composition in the case, the Court decided that the matters brought to its attention by the Government of Israel in a letter of 31 December 2003, and in a confidential letter of 15 January 2004 addressed to the President pursuant to Article 34, paragraph 2, of the Rules of Court, were not such as to preclude Judge Elaraby from sitting in the case.

Within the time-limit fixed by the Court for that purpose, written statements were filed by, in order of their receipt: Guinea, Saudi Arabia, League of Arab States, Egypt, Cameroon, Russian Federation, Australia, Palestine, United Nations, Jordan, Kuwait, Lebanon, Canada, Syria, Switzerland, Israel, Yemen, United States of America, Morocco, Indonesia, Organization of the Islamic Conference, France, Italy, Sudan, South Africa, Germany, Japan, Norway, United Kingdom, Pakistan, Czech Republic, Greece, Ireland on its own behalf, Ireland on behalf of the European Union, Cyprus, Brazil, Namibia, Malta, Malaysia, Netherlands, Cuba, Sweden, Spain, Belgium, Palau, Federated States of Micronesia, Marshall Islands, Senegal, Democratic People's Republic of Korea.

In the course of hearings held from 23 to 25 February 2004, the Court heard oral statements, in the following order, by: Palestine, South Africa, Algeria, Saudi Arabia, Bangladesh, Belize, Cuba, Indonesia, Jordan, Madagascar, Malaysia, Senegal, Sudan, League of Arab States, Organization of the Islamic Conference.

At a public sitting held on 9 July 2004, the Court delivered its Advisory Opinion (*I.C.J. Reports 2004*, p. 136), a summary of which is given below, followed by the text of the final paragraph:

History of the proceedings (paras. 1-12)

The Court first recites the history of the proceedings.

Questions of jurisdiction (paras. 13-42)

At the outset of its reasoning the Court observes that, when seised of a request for an advisory opinion, it must first consider whether it has jurisdiction to give the opinion requested and whether, should the answer be in the affirmative, there is any reason why it should decline to exercise any such jurisdiction.

The Court first addresses the question whether it possesses jurisdiction to give the advisory opinion. It notes first that the competence of the Court in this regard is based on Article 65, paragraph 1, of its Statute, according to which the Court "may give an advisory opinion on any legal question at the request of whatever body may be authorized by or in accordance with the Charter of the United Nations to make such a request", and secondly that the General Assembly, which seeks the advisory opinion, is authorized to do so by Article 96, paragraph 1, of the Charter, which provides: "The General Assembly or the Security Council may request the International Court of Justice to give an advisory opinion on any legal question." As it has done sometimes in the past, the Court then turns to the relationship between the question which is the subject of a request for an advisory opinion and the activities of the Assembly. It observes in this respect that Article 10 of the Charter has conferred upon the General Assembly a competence relating to "any questions or any matters" within the scope of the Charter, and that Article 11, paragraph 2, has specifically provided it with competence on "questions relating to the maintenance of international peace and security brought before it by any Member of the United Nations . . ." and to make recommendations under certain conditions fixed by those Articles.

It notes that the question of the construction of the wall in the Occupied Palestinian Territory was brought before the General Assembly by a number of Member States in the context of the Tenth Emergency Special Session of the Assembly, convened to deal with what the Assembly, in its resolution ES-10/2 of 25 April 1997, considered to constitute a threat to international peace and security.

After recalling the sequence of events that led to the adoption of resolution ES-10/14, the Court turns to the first question of jurisdiction raised in the present proceedings. Israel has alleged that, given the active engagement of the Security Council with the situation in the Middle East, including the Palestinian question, the General Assembly acted *ultra vires* under the Charter, because its request for an advisory opinion was not in accordance with Article 12, paragraph 1, of the Charter, which provides that:

> "While the Security Council is exercising in respect of any dispute or situation the functions assigned to it in the present Charter, the General Assembly shall not make any recommendation with regard to that dispute or situation unless the Security Council so requests."

The Court first observes that a request for an advisory opinion is not a "recommendation" by the General Assembly "with regard to [a] dispute or situation", within the meaning of Article 12, but considers it appropriate to examine the significance of that Article, having regard to the practice of the United Nations. It notes that, under Article 24 of the Charter, the Security Council has "primary responsibility for the maintenance of international peace and security" and that both the Security Council and the General Assembly initially interpreted and applied Article 12 to the effect that the Assembly could not make a recommendation on a question concerning the maintenance of international peace and security while the matter remained on the Council's agenda, but that this interpretation of Article 12 has evolved subsequently. The Court takes note of an interpretation of that text given by the United Nations Legal Counsel at the Twenty-third Session of the Assembly, and of an increasing tendency over time for the General Assembly and the Security Council to deal in parallel with the same matter concerning the maintenance of international peace and security. The Court considers that the accepted practice of the Assembly, as it has evolved, is consistent with Article 12, paragraph 1; it is accordingly of the view that the General Assembly, in adopting resolution ES-10/14, seeking an advisory opinion from the Court, did not contravene the provisions of Article 12, paragraph 1, of the Charter. The Court concludes that by submitting that request the General Assembly did not exceed its competence.

The Court recalls that it has however been contended before it that the request did not fulfil the essential conditions set by resolution 377 A (V), under which the Tenth Emergency Special Session was convened and has continued to act.

Resolution 377 A (V) provides that:

> "if the Security Council, because of lack of unanimity of the permanent members, fails to exercise its primary responsibility for the maintenance of international peace and security in any case where there appears to be a threat to the peace, breach of the peace, or act of aggression, the General Assembly shall consider the matter immediately with a view to making appropriate recommendations to Members for collective measures . . .".

The Court proceeds to ascertain whether the conditions laid down by this resolution were fulfilled as regards the convening of the Tenth Emergency Special Session of the General Assembly, in particular at the time when the Assembly decided to request an advisory opinion from the Court.

In light of the sequence of events as described by it, the Court observes that, at the time when the Tenth Emergency Special Session was convened in 1997, the Council had been unable to take a decision on the case of certain Israeli settlements in the Occupied Palestinian Territory, due to a negative vote of a permanent member; and that, as indicated in resolution ES-10/2, there existed a threat to international peace and security. The Court further notes that, on 20 October 2003, the Tenth Emergency Special Session of the General Assembly was reconvened on the same basis as in 1997, after the rejection by the Security Council, on 14 October 2003, again as a result of the negative vote of a permanent member, of a draft resolution concerning the construction by Israel of the wall in the Occupied Palestinian Territory. The Court considers that the Security Council again failed to act as contemplated in resolution 377 A (V). It does not appear to the Court that the situation in this regard changed between 20 October 2003 and 8 December 2003, since the Council neither discussed the construction of the wall nor adopted any resolution in that connection. Thus, the Court is of the view that, up to 8 December 2003, the Council had not reconsidered the negative vote of 14 October 2003. The Court concludes that, during that period, the Tenth Emergency Special Session was duly reconvened and could properly be seised of the matter now before the Court, under resolution 377 A (V).

The Court also emphasizes that, in the course of this Emergency Special Session, the General Assembly could adopt any resolution falling within the subject-matter for which the Session had been convened, and otherwise within its powers, including a resolution seeking the Court's opinion. It is irrelevant in that regard that no proposal had been made to the Security Council to request such an opinion.

Turning to alleged further procedural irregularities of the Tenth Emergency Special Session, the Court does not consider that the "rolling" character of that Session, namely the fact of it having been convened in April 1997 and reconvened 11 times since then, has any relevance with regard to the validity of the request by the General Assembly. In response to the contention by Israel that it was improper to reconvene the Tenth Emergency Special Session at a time when the regular Session of the General Assembly was in progress, the Court observes that, while it may not have been originally contemplated that it would be appropriate for the General Assembly to hold simultaneous emergency and regular sessions, no rule of the Organization has been identified which would be thereby violated, so as to render invalid the resolution adopting the present request for an advisory opinion. Finally, the Tenth Emergency Special Session appears to have been convened in accordance with Rule 9 *(b)* of the Rules of Procedure of the General Assembly, and the relevant meetings have been convened in pursuance of the applicable rules.

The Court turns to a further issue related to jurisdiction namely the contention that the request for an advisory opinion by the General Assembly does not raise a "legal question" within the meaning of Article 96, paragraph 1, of the Charter and Article 65, paragraph 1, of the Statute of the Court.

As regards the alleged lack of clarity of the terms of the General Assembly's request and its effect on the "legal nature" of the question referred to the Court, the Court observes that this question is directed to the legal consequences arising from a given factual situation considering the rules and principles of international law, including the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 (hereinafter the "Fourth Geneva Convention") and relevant Security Council and General Assembly resolutions. In the view of the Court, it is indeed a question of a legal character. The Court further points out that lack of clarity in the drafting of a question does not deprive the Court of jurisdiction. Rather, such uncertainty will require clarification in interpretation, and such necessary clarifications of interpretation have frequently been given by the Court. Therefore, the Court will, as it has done often in the past, "identify the existing principles and rules, interpret them and apply them . . . , thus offering a reply to the question posed based on law" (*Legality of the Threat or Use of Nuclear Weapons, I.C.J. Reports 1996 (I)*, p. 234, para. 13). The Court points out that, in the present instance, if the General Assembly requests the Court to state the "legal consequences" arising from the construction of the wall, the use of these terms necessarily encompasses an assessment of whether that construction is or is not in breach of certain rules and principles of international law.

The Court does not consider that what is contended to be the abstract nature of the question posed to it raises an issue of jurisdiction. Even when the matter was raised as an issue of propriety rather than one of jurisdiction, in the case concerning the *Legality of the Threat or Use of Nuclear Weapons*, the Court took the clear position that to contend that it should not deal with a question couched in abstract terms is "a mere affirmation devoid of any justification" and that "the Court may give an advisory opinion on any legal question, abstract or otherwise" (*I.C.J. Reports 1996 (I)*, p. 236, para. 15).

The Court finds that it furthermore cannot accept the view, which has also been advanced, that it has no jurisdiction because of the "political" character of the question posed. As is clear from its long-standing jurisprudence on this point, the Court considers that the fact that a legal question also has political aspects, "does not suffice to deprive it of its character as a 'legal question' and to 'deprive the Court of a competence expressly conferred on it by its Statute', and the Court cannot refuse to admit the legal character of a question which invites it to discharge an essentially judicial task" (*Legality of the Threat or Use of Nuclear Weapons, I.C.J. Reports 1996 (I)*, p. 234, para. 13).

The Court accordingly concludes that it has jurisdiction to give the advisory opinion requested by resolution ES-10/14 of the General Assembly.

Discretionary power of the Court to exercise its jurisdiction (paras. 43-65)

The Court notes that it has been contended, however, that the Court should decline to exercise its jurisdiction because of the presence of specific aspects of the General Assembly's request that would render the exercise of the Court's jurisdiction improper and inconsistent with the Court's judicial function.

The Court first recalls that Article 65, paragraph 1, of its Statute, which provides that "The Court *may* give an advisory opinion . . ." (emphasis added), should be interpreted to mean that the Court retains a discretionary power to decline to give an advisory opinion even if the conditions of jurisdiction are met. It is mindful however of the fact that its answer to a request for an advisory opinion "represents its participation in the activities of the Organization, and, in principle, should not be refused". From this it follows that, given its responsibilities as the "principal judicial organ of the United Nations" (Article 92 of the Charter), the Court should in principle not decline to give an advisory opinion, and only "compelling reasons" should lead the Court to do so.

The first argument presented to the Court in this regard is to the effect that it should not exercise its jurisdiction in the present case because the request concerns a contentious matter between Israel and Palestine, in respect of which Israel has not consented to the exercise of that jurisdiction. According to this view, the subject-matter of the question posed by the General Assembly "is an integral part of the wider Israeli-Palestinian dispute concerning questions of terrorism, security, borders, settlements, Jerusalem and other related matters". The Court observes in this respect that the lack of consent to the Court's contentious jurisdiction by interested States has no bearing on the Court's jurisdiction to give an advisory opinion, but recalls its jurisprudence to the effect that the lack of consent of an interested State might render the giving of an advisory opinion incompatible with the Court's judicial character, for example if to give a reply would have the effect of circumventing the principle that a State is not obliged to submit its disputes to judicial settlement without its consent.

As regards the request for an advisory opinion now before it, the Court acknowledges that Israel and Palestine have expressed radically divergent views on the legal consequences of Israel's construction of the wall, on which the Court has been asked to pronounce in the context of the opinion it would give. However, as the Court has itself noted before, "Differences of views . . . on legal issues have existed in practically every advisory proceeding." Furthermore, the Court does not consider that the subject-matter of the General Assembly's request can be regarded as only a bilateral matter between Israel and Palestine. Given the powers and responsibilities of the United Nations in questions relating to international peace and security, it is the Court's view that the construction of the wall must be deemed to be directly of concern to the United Nations in general and the General Assembly in particular. The responsibility of the United Nations in this matter also has its origin in the Mandate and the Partition Resolution concerning Palestine. This responsibility has been described by the General Assembly as "a permanent responsibility towards the question of Palestine until the question is resolved in all its aspects in a satisfactory manner in accordance with international legitimacy" (General Assembly resolution 57/107 of 3 December 2002). The object of the request before the Court is to obtain from the Court an opinion which the General Assembly deems of assistance to it for the proper exercise of its functions. The opinion is requested on a question which is of particularly acute concern to the United Nations, and one which is located in a much broader frame of reference than a bilateral dispute. In the circumstances, the Court does not consider that to give an opinion would have the effect of circumventing the principle of consent to judicial settlement, and the Court accordingly cannot, in the exercise of its discretion, decline to give an opinion on that ground.

The Court then turns to another argument raised in support of the view that it should decline to exercise its jurisdiction: that an advisory opinion from the Court on the legality of the wall and the legal consequences of its construction could impede a political, negotiated solution to the Israeli-Palestinian conflict. More particularly, it has been contended that such an opinion could undermine the scheme of the "Roadmap", which requires Israel and Palestine to comply with certain obligations in various phases referred to therein. The Court observes that it is conscious that the "Roadmap", which was endorsed by Security Council resolution 1515 (2003), constitutes a negotiating framework for the resolution of the Israeli-Palestinian conflict, but that it is not clear what influence its opinion might have on those negotiations: participants in the present proceedings have expressed differing views in this regard. The Court finds that it cannot regard this factor as a compelling reason to decline to exercise its jurisdiction.

It was also put to the Court by certain participants that the question of the construction of the wall was only one aspect of the wider

Israeli-Palestinian conflict which could not be properly addressed in the present proceedings. The Court does not however consider this a reason for it to decline to reply to the question asked: it is aware, and would take into account, that the question of the wall is part of a greater whole. At the same time, the question which the General Assembly has chosen to ask of the Court is confined to the legal consequences of the construction of the wall, and that the Court would only examine other issues to the extent that they might be necessary to its consideration of the question put to it.

The further argument has been raised that the Court should decline to exercise its jurisdiction because it does not have at its disposal the requisite facts and evidence to enable it to reach its conclusions. According to Israel, if the Court decided to give the requested opinion, it would be forced to speculate about essential facts and make assumptions about arguments of law. The Court points out that in the present instance, it has at its disposal the report of the Secretary-General, as well as a voluminous dossier submitted by him to the Court, comprising not only detailed information on the route of the wall but also on its humanitarian and socio-economic impact on the Palestinian population. The dossier includes several reports based on on-site visits by special rapporteurs and competent organs of the United Nations. Moreover, numerous other participants have submitted to the Court written statements which contain information relevant to a response to the question put by the General Assembly. The Court notes in particular that Israel's Written Statement, although limited to issues of jurisdiction and propriety, contained observations on other matters, including Israel's concerns in terms of security, and was accompanied by corresponding annexes; and that many other documents issued by the Israeli Government on those matters are in the public domain.

The Court therefore finds that it has before it sufficient information and evidence to enable it to give the advisory opinion requested by the General Assembly. Moreover, the circumstance that others may evaluate and interpret these facts in a subjective or political manner can be no argument for a court of law to abdicate its judicial task. There is therefore in the present case no lack of information such as to constitute a compelling reason for the Court to decline to give the requested opinion.

Another argument that has been advanced is that the Court should decline to give the requested opinion on the legal consequences of the construction of the wall because such opinion would lack any useful purpose: the General Assembly would not need an opinion of the Court because it has already declared the construction of the wall to be illegal and has already determined the legal consequences by demanding that Israel stop and reverse its construction and further, because the General Assembly has never made it clear how it intended to use the opinion. The Court observes that, as is clear from its jurisprudence, advisory opinions have the purpose of furnishing to the requesting organs the elements of law necessary for them in their action. It recalls what it stated in its Opinion on the *Legality of the Threat or Use of Nuclear Weapons*: "it is not for the Court itself to purport to decide whether or not an advisory opinion is needed by the Assembly for the performance of its functions. The General Assembly has the right to decide for itself on the usefulness of an opinion in the light of its own needs." It thus follows that the Court cannot decline to answer the question posed based on the ground that its opinion would lack any useful purpose. The Court cannot substitute its assessment of the usefulness of the opinion requested for that of the organ that seeks such opinion, namely the General Assembly. Furthermore, and in any event, the Court considers that the General Assembly has not yet determined all the possible consequences of its own resolution. The Court's task would be to determine in a comprehensive manner the legal consequences of the construction of the wall, while the General Assembly – and the Security Council – may then draw conclusions from the Court's findings.

Lastly, another argument advanced by Israel with regard to the propriety of its giving an advisory opinion in the present proceedings is that Palestine, given its responsibility for acts of violence against Israel and its population which the wall is aimed at addressing, cannot seek from the Court a remedy for a situation resulting from its own wrongdoing. Therefore, Israel concludes, good faith and the principle of "clean hands" provide a compelling reason that should lead the Court to refuse the General Assembly's request. The Court does not consider this argument to be pertinent. It emphasizes, as earlier, that it was the General Assembly which requested the advisory opinion, and that the opinion is to be given to the General Assembly, and not to an individual State or entity.

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In the light of the foregoing, the Court concludes that it has jurisdiction to give an opinion on the question put to it by the General Assembly and that there is no compelling reason for it to use its discretionary power not to give that opinion.

Scope of the question before the Court (paras. 66-69)

The Court then proceeds to address the question put to it by General Assembly resolution ES-10/14 (see above). The Court explains that it has chosen to use the term "wall" employed by the General Assembly, because the other terms used – "fence" or "barrier" – are no more accurate if understood in the physical sense. It further notes that the request of the General Assembly concerns the legal consequences of the wall being built "in the Occupied Palestinian Territory, including in and around East Jerusalem", and considers that it is not called upon to examine the legal consequences arising from the construction of those parts of the wall which are on the territory of Israel itself.

Historical background (paras. 70-78)

In order to indicate the legal consequences of the construction of the wall in the Occupied Palestinian Territory, the Court has first to determine whether or not the construction of that wall breaches international law. To this end, it first makes a brief historical analysis of the status of the territory concerned since the time that Palestine, having been part of the Ottoman Empire, was, at the end of the First World War, the subject of a class "A" mandate entrusted by the League of Nations to Great Britain. In the course of this analysis, the Court mentions the hostilities of 1948-1949, and the armistice demarcation line between Israeli and Arab forces fixed by a general armistice agreement of 3 April 1949 between Israel and Jordan, referred to as the "Green Line". At the close of its analysis, the Court notes that the territories situated between the Green Line and the former eastern boundary of Palestine under the Mandate were occupied by Israel in 1967 during the armed conflict between Israel and Jordan. Under customary international law, the Court observes, these were therefore occupied territories in which Israel had the status of occupying Power. Subsequent events in these territories have done nothing to alter this situation. The Court concludes that all these territories (including East Jerusalem) remain occupied territories and that Israel has continued to have the status of occupying Power.

Description of the wall (paras. 79-85)

The Court goes on to describe, on the basis of the information available to it in a report by the United Nations Secretary-General and the Written Statement presented to the Court by the Secretary-General, the works already constructed or in course of construction in that territory.

Relevant rules and principles of international law (paras. 86-113)

It then turns to the determination of the rules and principles of international law which are relevant in assessing the legality of the measures taken by Israel. It observes that such rules and principles can be found in the United Nations Charter and certain other treaties, in customary international law and in the relevant resolutions adopted pursuant to the Charter by the General Assembly and the Security Council. It is aware, however, that doubts have been expressed by Israel as to the applicability in the Occupied Palestinian Territory of certain rules of international humanitarian law and human rights instruments.

United Nations Charter and General Assembly resolution 2625 (XXV) (paras. 87-88)

The Court first recalls Article 2, paragraph 4, of the United Nations Charter, which provides that:

> "All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the Purposes of the United Nations",

and General Assembly resolution 2625 (XXV), entitled "Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States" (hereinafter "resolution 2625 (XXV)"), in which the Assembly emphasized that "No territorial acquisition resulting from the threat or use of force shall be recognized as legal." As stated in the Court's Judgment in the case concerning *Military and Paramilitary Activities in and against Nicaragua (Nicaragua* v. *United States of America)*, the principles as to the use of force incorporated in the Charter reflect customary international law (see *I.C.J. Reports 1986*, pp. 98-101, paras. 187-190); the same is true, it observes, of its corollary entailing the illegality of territorial acquisition resulting from the threat or use of force.

As to the principle of self-determination of peoples, the Court points out that it has been enshrined in the United Nations Charter and reaffirmed by the General Assembly in resolution 2625 (XXV) cited above, pursuant to which "Every State has the duty to refrain from any forcible action which deprives peoples referred to [in that resolution] . . . of their right to self-determination." Article 1 common to the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights reaffirms the right of all peoples to self-determination, and lays upon the States parties the obligation to promote the realization of that right and to respect it, in conformity with the provisions of the United Nations Charter. The Court recalls its previous case law, which emphasized that current developments in "international law in regard to non-self-governing territories, as enshrined in the Charter of the United Nations, made the principle of self-determination applicable to all [such territories]", and that the right of peoples to self-determination is today a right *erga omnes*.

International humanitarian law (paras. 89-101)

As regards international humanitarian law, the Court first recalls that Israel is not a party to the Fourth Hague Convention of 1907, to which the Hague Regulations are annexed. It considers, however, that the provisions of the Hague Regulations have become part of customary law, as is in fact recognized by all the participants in the proceedings before the Court. The Court also observes that, pursuant to Article 154 of the Fourth Geneva Convention, that Convention is supplementary to Sections II and III of the Hague Regulations. Section III of those Regulations, which concerns "Military authority over the territory of the hostile State", is particularly pertinent in the present case.

Secondly, with regard to the Fourth Geneva Convention, the Court takes note that differing views have been expressed by the participants in these proceedings. Israel, contrary to the great majority of the participants, disputes the applicability *de jure* of the Convention to the Occupied Palestinian Territory. The Court recalls that the Fourth Geneva Convention was ratified by Israel on 6 July 1951 and that Israel is a party to that Convention; that Jordan has also been a party thereto since 29 May 1951; and that neither of the two States has made any reservation that would be pertinent to the present proceedings. The Court observes that the Israeli authorities have indicated on a number of occasions that in fact they generally apply the humanitarian provisions of the Fourth Geneva Convention within the occupied territories. However, according to Israel's position, that Convention is not applicable *de jure* within those territories because, under Article 2, paragraph 2, it applies only in the case of occupation of territories falling under the sovereignty of a High Contracting Party involved in an armed conflict. Israel explains that the territories occupied by Israel subsequent to the 1967 conflict had not previously fallen under Jordanian sovereignty.

The Court notes that, according to the first paragraph of Article 2 of the Fourth Geneva Convention, when two conditions are fulfilled, namely that there exists an armed conflict (whether or not a state of war has been recognized), and that the conflict has arisen between two contracting parties, then the Convention applies, in particular, in any territory occupied in the course of the conflict by one of the contracting parties. The object of the second paragraph of Article 2, which refers to "occupation of the territory of a High Contracting Party", is not to restrict the scope of application of the Convention, as defined by the first paragraph, by excluding therefrom territories not falling under the sovereignty of one of the contracting parties, but simply to making it clear that, even if occupation effected during the conflict met no armed resistance, the Convention is still applicable.

This interpretation reflects the intention of the drafters of the Fourth Geneva Convention to protect civilians who find themselves, in whatever way, in the hands of the occupying Power, regardless of the status of the occupied territories, and is confirmed by the Convention's *travaux préparatoires*. The States parties to the Fourth Geneva Convention, at their Conference on 15 July 1999, approved that interpretation, which has also been adopted by the ICRC, the General Assembly and the Security Council. The Court finally makes mention of a judgment of the Supreme Court of Israel dated 30 May 2004, to a similar effect.

In view of the foregoing, the Court considers that the Fourth Geneva Convention is applicable in the Palestinian territories which before the 1967 conflict lay to the east of the Green Line and which, during that conflict, were occupied by Israel, there being no need for any enquiry into the precise prior status of those territories.

Human rights law (paras. 102-113)

The participants in the proceedings before the Court also disagree whether the international human rights conventions to which Israel is party apply within the Occupied Palestinian Territory. Annex I to the report of the Secretary-General states:

> "4. Israel denies that the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, both of which it has signed, are applicable to the occupied Palestinian territory. It asserts that humanitarian law is the protection granted in a conflict situation such as the one in the West Bank and Gaza Strip, whereas human rights treaties were intended for the protection of citizens from their own Government in times of peace."

On 3 October 1991 Israel ratified both the International Covenant on Economic, Social and Cultural Rights of 19 December 1966 and the International Covenant on Civil and Political Rights of the same date, as well as the United Nations Convention on the Rights of the Child of 20 November 1989.

On the question of the relationship between international humanitarian law and human rights law, the Court first recalls its finding, in a previous case, that the protection of the International Covenant on Civil and Political Rights does not cease in time of war (*I.C.J. Reports 1996 (I)*, p. 240, para. 25). More generally, it considers that the protection offered by human rights conventions does not cease in case of armed conflict, save through the effect of provisions for derogation of the kind to be found in Article 4 of the International Covenant on Civil and Political Rights. It notes that there are thus three possible situations: some rights may be exclusively matters of international humanitarian law; others may be exclusively matters of human rights law; yet others may be matters of both these branches of international law. In order to answer the question put to it, the Court will have to take into consideration both these branches of international law, namely human rights law and, as *lex specialis*, international humanitarian law.

It remains to be determined whether the two international Covenants and the Convention on the Rights of the Child are applicable only on the territories of the States parties thereto or whether they are also applicable outside those territories and, if so, in what circumstances. After examination of the provision of the two international Covenants, in the light of the relevant *travaux préparatoires* and of the position of Israel in communications to the Human Rights Committee and the Committee on Economic, Social and Cultural Rights, the Court concludes that those instruments are applicable in respect of acts done by a State in the exercise of its jurisdiction outside its own territory. In the case of the International Covenant on Economic, Social and Cultural Rights, Israel is also under an obligation not to raise any obstacle to the exercise of such rights in those fields where competence has been transferred to Palestinian authorities. The Court further concludes that the Convention on the Rights of the Child is also applicable within the Occupied Palestinian Territory.

Violation of relevant rules (paras. 114-142)

The Court next proceeds to ascertain whether the construction of the wall has violated the rules and principles of international law found relevant to reply to the question posed by the General Assembly.

Impact on right of Palestinian people to self-determination (paras. 115-122)

It notes in this regard the contentions of Palestine and other participants that the construction of the wall is "an attempt to annex the territory contrary to international law" and "a violation of the legal principle prohibiting the acquisition of territory by the use of force" and that "the *de facto* annexation of land interferes with the territorial sovereignty and consequently with the right of the Palestinians to self-determination". It notes also that Israel, for its part, has argued that the wall's sole purpose is to enable it effectively to combat terrorist attacks launched from the West Bank, and that Israel has repeatedly stated that the Barrier is a temporary measure.

The Court recalls that both the General Assembly and the Security Council have referred, with regard to Palestine, to the customary rule of "the inadmissibility of the acquisition of territory by war". As regards the principle of the right of peoples to self-determination, the Court observes that the existence of a "Palestinian people" is no longer in issue, and has been recognized by Israel, along with that people's "legitimate rights". The Court considers that those rights include the right to self-determination, as the General Assembly has moreover recognized on a number of occasions.

The Court notes that the route of the wall as fixed by the Israeli Government includes within the "Closed Area" (i.e. the part of the West Bank lying between the Green Line and the wall) some 80 per cent of the settlers living in the Occupied Palestinian Territory, and has been traced in such a way as to include within that area the great majority of the Israeli settlements in the Occupied Palestinian Territory (including East Jerusalem). The information provided to the Court shows that, since 1977, Israel has conducted a policy and developed practices involving the establishment of settlements in the Occupied Palestinian Territory, contrary to the terms of Article 49, paragraph 6, of the Fourth Geneva Convention which provides: "The Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies." The Security Council has taken the view that such policy and practices "have no legal validity" and constitute a "flagrant violation" of the Convention. The Court concludes that the Israeli settlements in the Occupied Palestinian Territory (including East Jerusalem) have been established in breach of international law.

Whilst taking note of the assurance given by Israel that the construction of the wall does not amount to annexation and that the wall is of a temporary nature, the Court nevertheless considers that the construction of the wall and its associated régime create a "fait accompli" on the ground that could well become permanent, in which case, and notwithstanding the formal characterization of the wall by Israel, it would be tantamount to *de facto* annexation.

The Court considers moreover that the route chosen for the wall gives expression *in loco* to the illegal measures taken by Israel with regard to Jerusalem and the settlements, as deplored by the Security Council. There is also a risk of further alterations to the demographic composition of the Occupied Palestinian Territory resulting from the construction of the wall inasmuch as it is contributing to the departure of Palestinian populations from certain areas. That construction, along with measures taken previously, thus severely impedes the exercise by the Palestinian people of its right to self-determination, and is therefore a breach of Israel's obligation to respect that right.

Relevant international humanitarian law and human rights instruments
(paras. 123-137)

The construction of the wall also raises a number of issues in relation to the relevant provisions of international humanitarian law and of human rights instruments.

The Court first enumerates and quotes a number of such provisions applicable in the Occupied Palestinian Territory, including articles of the 1907 Hague Regulations, the Fourth Geneva Convention, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the United Nations Convention on the Rights of the Child. In this connection it also refers to obligations relating to guarantees of access to the Christian, Jewish and Islamic Holy Places.

From the information submitted to the Court, particularly the report of the Secretary-General, it appears that the construction of the wall has led to the destruction or requisition of properties under conditions which contravene the requirements of Articles 46 and 52 of the Hague Regulations of 1907 and of Article 53 of the Fourth Geneva Convention.

That construction, the establishment of a closed area between the Green Line and the wall itself, and the creation of enclaves, have moreover imposed substantial restrictions on the freedom of movement of the inhabitants of the Occupied Palestinian Territory (with the exception of Israeli citizens and those assimilated thereto). There have also been serious repercussions for agricultural production, and increasing difficulties for the population concerned regarding access to health services, educational establishments and primary sources of water.

In the view of the Court, the construction of the wall would also deprive a significant number of Palestinians of the "freedom to choose [their] residence". In addition, since a significant number of Palestinians have already been compelled by the construction of the wall and its associated régime to depart from certain areas, a process that will continue as more of the wall is built, that construction, coupled with the establishment of the Israeli settlements mentioned above, is tending to alter the demographic composition of the Occupied Palestinian Territory.

In sum, the Court is of the opinion that the construction of the wall and its associated régime impede the liberty of movement of the inhabitants of the Occupied Palestinian Territory (with the exception of Israeli citizens and those assimilated thereto) as guaranteed under Article 12, paragraph 1, of the International Covenant on Civil and Political Rights. They also impede the exercise by the persons concerned of the right to work, to health, to education and to an adequate standard of living as proclaimed in the International Covenant on Economic, Social and Cultural Rights and in the United Nations Convention on the Rights of the Child. Lastly, the construction of the wall and its associated régime, by contributing to the demographic changes mentioned, contravene Article 49, paragraph 6, of the Fourth Geneva Convention and the pertinent Security Council resolutions cited earlier.

The Court then examines certain provisions of the applicable international humanitarian law enabling account to be taken in certain circumstances of military exigencies, which may in its view be invoked in occupied territories even after the general close of the military operations that led to their occupation; it points out, however, that only Article 53 of the Fourth Geneva Convention contains a relevant provision of this kind, and finds that, on the material before it, the Court is not convinced that the destructions carried out contrary to the prohibition in that Article were "rendered absolutely necessary by military operations" so as to fall within the exception.

Similarly, the Court examines provisions in some human rights conventions permitting derogation from, or qualifying, the rights guaranteed by those conventions, but finds, on the basis of the information available to it, that the conditions laid down by such provisions are not met in the present instance.

In sum, the Court finds that, from the material available to it, it is not convinced that the specific course Israel has chosen for the wall was necessary to attain its security objectives. The wall, along the route chosen, and its associated régime gravely infringe a number of rights of Palestinians residing in the territory occupied by Israel, and the infringements resulting from that route cannot be justified by military exigencies or by the requirements of national security or public order. The construction of such a wall accordingly constitutes breaches by Israel of various of its obligations under the applicable international humanitarian law and human rights instruments.

Self-defence and state of necessity (paras. 138-141)

The Court recalls that Annex I to the report of the Secretary-General states, however, that, according to Israel: "the construction of the Barrier is consistent with Article 51 of the Charter of the United Nations, its inherent right to self-defence and Security Council resolutions 1368 (2001) and 1373 (2001)".

Article 51 of the Charter, the Court notes, recognizes the existence of an inherent right of self-defence in the case of armed attack by one State against another State. However, Israel does not claim that the attacks against it are imputable to a foreign State. The Court also notes that Israel exercises control in the Occupied Palestinian Territory and that, as Israel itself states, the threat which it regards as justifying the construction of the wall originates within, and not outside, that territory. The situation is thus different from that contemplated by Security Council resolutions 1368 (2001) and 1373 (2001), and therefore Israel could not in any event invoke those resolutions in support of its claim to be exercising a right of self-defence. Consequently, the Court concludes that Article 51 of the Charter has no relevance in this case.

The Court considers further whether Israel could rely on a state of necessity which would preclude the wrongfulness of the construction of the wall. In this regard, citing its decision in the case concerning the *Gabčikovo-Nagymaros Project (Hungary/Slovakia)*, it observes that the state of necessity is a ground recognized by customary international law that "can only be invoked under certain strictly defined conditions which must be cumulatively satisfied" (*I.C.J. Reports 1997*, p. 40, para. 51), one of those conditions being that the act at issue be the only way for the State to guard an essential interest against a grave and imminent peril. In the light of the material before it, the Court is not convinced that the construction of the wall along the route chosen was the only means to safeguard the interests of Israel against the peril which it has invoked as justification for that construction. While Israel has the right, and indeed the duty to respond to the numerous and deadly acts of violence directed against its civilian population, in order to protect the life of its citizens, the measures taken are bound to remain in conformity with applicable international law. Israel cannot rely on a right of self-defence or on a state of necessity in order to preclude the wrongfulness of the construction of the wall. The Court accordingly finds that the construction of the wall, and its associated régime, are contrary to international law.

Legal consequences of the violations (paras. 143-160)

The Court then examines the consequences of the violations by Israel of its international obligations. After recalling the contentions in that respect of various participants in the proceedings, the Court observes that the responsibility of Israel is engaged under international law. It then proceeds to examine the legal consequences by distinguishing between, on the one hand, those arising for Israel and, on the other, those arising for other States and, where appropriate, for the United Nations.

Legal consequences of those violations for Israel (paras. 149-153)

The Court notes that Israel is first obliged to comply with the international obligations it has breached by the construction of the wall in the Occupied Palestinian Territory. Consequently, Israel is bound to comply with its obligation to respect the right of the Palestinian people to self-determination and its obligations under international humanitarian law and international human rights law. Furthermore, it must ensure freedom of access to the Holy Places that came under its control following the 1967 War.

The Court observes that Israel also has an obligation to put an end to the violation of its international obligations flowing from the construction of the wall in the Occupied Palestinian Territory. Israel accordingly has the obligation to cease forthwith the works of construction of the wall being built by it in the Occupied Palestinian Territory, including in and around East Jerusalem. In the view of the Court, cessation of Israel's violations of its international obligations entails in practice the dismantling forthwith of those parts of that structure situated within the Occupied Palestinian Territory, including in and around East Jerusalem. All legislative and regulatory acts adopted with a view to its construction, and to the establishment of its associated régime, must forthwith be repealed or rendered ineffective, except where of continuing relevance to Israel's obligation of reparation.

The Court finds further that Israel has the obligation to make reparation for the damage caused to all the natural or legal persons concerned. The Court recalls the established jurisprudence that

> "The essential principle contained in the actual notion of an illegal act . . . is that reparation must, as far as possible, wipe out all the consequences of the illegal act and reestablish the situation which would, in all probability, have existed if that act had not been committed."

Israel is accordingly under an obligation to return the land, orchards, olive groves and other immovable property seized from any natural or legal person for purposes of construction of the wall in the Occupied Palestinian Territory. In the event that such restitution should prove to be materially impossible, Israel has an obligation to compensate the persons in question for the damage suffered. The Court considers that Israel also has an obligation to compensate, in accordance with the applicable rules of international law, all natural or legal persons having suffered any form of material damage as a result of the wall's construction.

Legal consequences for other States (paras. 154-159)

The Court points out that the obligations violated by Israel include certain obligations *erga omnes*. As the Court indicated in the *Barcelona Traction* case, such obligations are by their very nature "the concern of all States" and, "In view of the importance of the rights involved, all States can be held to have a legal interest in their protection." (*Barcelona Traction, Light and Power Company, Limited, Second Phase, Judgment, I.C.J. Reports 1970*, p. 32, para. 33.) The obligations *erga omnes* violated by Israel are the obligation to respect the right of the Palestinian people to self-determination, and certain of its obligations under international humanitarian law. As regards self-determination, the Court recalls its findings in the *East Timor* case, and General Assembly resolution 2625 (XXV). It recalls that a great many rules of humanitarian law "constitute intransgressible principles of international customary law" (*I.C.J. Reports 1996 (I)*, p. 257, para. 79), and observes that they incorporate obligations which are essentially of an *erga omnes* character. It also notes the obligation of States parties to the Fourth Geneva Convention to "ensure respect" for its provisions.

Given the character and the importance of the rights and obligations involved, the Court is of the view that all States are under an obligation not to recognize the illegal situation resulting from the construction of the wall in the Occupied Palestinian Territory, including in and around East Jerusalem. They are also under an obligation not to render aid or assistance in maintaining the situation created by such construction. It is also for all States, while respecting the United Nations Charter and international law, to see to it that any impediment, resulting from the construction of the wall, to the exercise by the Palestinian people of its right to self-determination is brought to an end. In addition, all the States parties to the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 are under an obligation, while respecting the United Nations Charter and international law, to ensure compliance by Israel with international humanitarian law as embodied in that Convention.

The United Nations (para. 160)

Finally, the Court is of the view that the United Nations, and especially the General Assembly and the Security Council, should consider what further action is required to bring to an end the illegal situation resulting from the construction of the wall and the associated régime, taking due account of the present Advisory Opinion.

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The Court considers that its conclusion that the construction of the wall by Israel in the Occupied Palestinian Territory is contrary to international law must be placed in a more general context. Since 1947, the year when General Assembly resolution 181 (II) was adopted and the Mandate for Palestine was terminated, there has been a succession of armed conflicts, acts of indiscriminate violence and repressive measures on the former mandated territory. The Court would emphasize that both

Israel and Palestine are under an obligation scrupulously to observe the rules of international humanitarian law, one of the paramount purposes of which is to protect civilian life. Illegal actions and unilateral decisions have been taken on all sides, whereas, in the Court's view, this tragic situation can be brought to an end only through implementation in good faith of all relevant Security Council resolutions, in particular resolutions 242 (1967) and 338 (1973). The "Roadmap" approved by Security Council resolution 1515 (2003) represents the most recent of efforts to initiate negotiations to this end. The Court considers that it has a duty to draw the attention of the General Assembly, to which the present Opinion is addressed, to the need for these efforts to be encouraged with a view to achieving as soon as possible, on the basis of international law, a negotiated solution to the outstanding problems and the establishment of a Palestinian State, existing side by side with Israel and its other neighbours, with peace and security for all in the region.

*

Operative paragraph (para. 163)

"For these reasons,

THE COURT,

(1) Unanimously,

Finds that it has jurisdiction to give the advisory opinion requested;

(2) By fourteen votes to one,

Decides to comply with the request for an advisory opinion;

IN FAVOUR: *President* Shi; *Vice-President* Ranjeva; *Judges* Guillaume, Koroma, Vereshchetin, Higgins, Parra-Aranguren, Kooijmans, Rezek, Al-Khasawneh, Elaraby, Owada, Simma, Tomka;

AGAINST: *Judge* Buergenthal;

(3) *Replies* in the following manner to the question put by the General Assembly:

A. By fourteen votes to one,

The construction of the wall being built by Israel, the occupying Power, in the Occupied Palestinian Territory, including in and around East Jerusalem, and its associated régime, are contrary to international law;

IN FAVOUR: *President* Shi; *Vice-President* Ranjeva; *Judges* Guillaume, Koroma, Vereshchetin, Higgins, Parra-Aranguren, Kooijmans, Rezek, Al-Khasawneh, Elaraby, Owada, Simma, Tomka;

AGAINST: *Judge* Buergenthal;

B. By fourteen votes to one,

Israel is under an obligation to terminate its breaches of international law; it is under an obligation to cease forthwith the works of construction of the wall being built in the Occupied Palestinian Territory, including in and around East Jerusalem, to dismantle forthwith the structure therein situated, and to repeal or render ineffective forthwith all legislative and regulatory acts relating thereto, in accordance with paragraph 151 of this Opinion;

IN FAVOUR: *President* Shi; *Vice-President* Ranjeva; *Judges* Guillaume, Koroma, Vereshchetin, Higgins, Parra-Aranguren, Kooijmans, Rezek, Al-Khasawneh, Elaraby, Owada, Simma, Tomka;

AGAINST: *Judge* Buergenthal;

C. By fourteen votes to one,

Israel is under an obligation to make reparation for all damage caused by the construction of the wall in the Occupied Palestinian Territory, including in and around East Jerusalem;

IN FAVOUR: *President* Shi; *Vice-President* Ranjeva; *Judges* Guillaume, Koroma, Vereshchetin, Higgins, Parra-Aranguren, Kooijmans, Rezek, Al-Khasawneh, Elaraby, Owada, Simma, Tomka;

AGAINST: *Judge* Buergenthal;

D. By thirteen votes to two,

All States are under an obligation not to recognize the illegal situation resulting from the construction of the wall and not to render aid or assistance in maintaining the situation created by such construction; all States parties to the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 have in addition the obligation, while respecting the United Nations Charter and international law, to ensure compliance by Israel with international humanitarian law as embodied in that Convention;

IN FAVOUR: *President* Shi; *Vice-President* Ranjeva; *Judges* Guillaume, Koroma, Vereshchetin, Higgins, Parra-Aranguren, Rezek, Al-Khasawneh, Elaraby, Owada, Simma, Tomka;

AGAINST: *Judges* Kooijmans, Buergenthal;

E. By fourteen votes to one,

The United Nations, and especially the General Assembly and the Security Council, should consider what further action is required to bring to an end the illegal situation resulting from the construction of the wall and the associated régime, taking due account of the present Advisory Opinion.

IN FAVOUR: *President* Shi; *Vice-President* Ranjeva; *Judges* Guillaume, Koroma, Vereshchetin, Higgins, Parra-Aranguren, Kooijmans, Rezek, Al-Khasawneh, Elaraby, Owada, Simma, Tomka;

AGAINST: *Judge* Buergenthal."

*

Judges Koroma, Higgins, Kooijmans and Al-Khasawneh appended separate opinions to the Advisory Opinion of the Court; Judge Buergenthal appended a declaration; Judges Elaraby and Owada appended separate opinions.

II. Application of the Statute and Rules of Court

1. *Organization of the Court*

(a) *The Presidency*

(Statute, Art. 48; Rules, Arts. 31, 44, 48 and 88)

In each of the cases concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United Kingdom)* and *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United States of America)*, the President, after the two Parties had jointly notified the Court that they had agreed to discontinue the proceedings with prejudice, made an Order placing on record the discontinuance with prejudice, by agreement of the Parties, and directing the removal of the case from the List.

In the case concerning *Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore)*, the President of the Court made an Order fixing time-limits for the filing, by each of the Parties, of a Memorial and a Counter-Memorial.

On several occasions the President convened meetings with the Agents and Parties in cases pending before the Court in order to ascertain the views of those Parties with regard to questions of procedure.

(b) *Non-participation of a judge in a case*

(Statute, Arts. 23, para. 3, and 24, para. 1; Rules, Arts. 20, para. 2, and 34, para. 2)

One Member of the Court, pursuant to Article 24, paragraph 1, of the Statute, informed the President that he considered he should not take part in the decision in the cases concerning *Legality of Use of Force (Serbia and Montenegro*[1] v. *Belgium); (Serbia and Montenegro*[1] v. *Canada); (Serbia and Montenegro*[1] v. *France); (Serbia and Montenegro*[1] v. *Germany); (Serbia and Montenegro*[1] v. *Italy); (Serbia and Montenegro*[1] v. *Netherlands); (Serbia and Montenegro*[1] v. *Portugal); (Serbia and Montenegro*[1] v. *United Kingdom)*. Two other Members, for reasons duly explained to the President, did not attend one of the public sittings during the oral proceedings in those cases.

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[1] See footnote 1, p. 98, above.

The Member of the Court mentioned above, also recused himself in the case concerning *Avena and Other Mexican Nationals (Mexico v. United States of America)*.

In the case concerning *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* (request for an advisory opinion) the Court, by an Order of 30 January 2004 regarding its composition in the case decided that the matters brought to its attention by the Government of Israel in a letter of 31 December 2003, and in a confidential letter of 15 January 2004 addressed to the President pursuant to Article 34, paragraph 2, of the Rules of Court, were not such as to preclude Judge Elaraby from sitting in the case.

(c) *Judges* ad hoc

(Statute, Arts. 20 and 31; Rules, Arts. 4, 8 and 35)

In the case concerning *Legality of Use of Force (Serbia and Montenegro*[1] *v. Belgium); (Serbia and Montenegro*[1] *v. Canada); (Serbia and Montenegro*[1] *v. France); (Serbia and Montenegro*[1] *v. Germany); (Serbia and Montenegro*[1] *v. Italy); (Serbia and Montenegro*[1] *v. Netherlands); (Serbia and Montenegro*[1] *v. Portugal); (Serbia and Montenegro*[1] *v. United Kingdom)*, the Court decided, pursuant to Article 31, paragraph 5, of the Statute, that, taking into account the presence upon the Bench of judges of British, Dutch and French nationality, the judges *ad hoc* chosen by the respondent States should not sit during the preliminary objections phase of the procedure in these cases; it was made clear to the Agents that this decision by the Court did not in any way prejudice the question whether, if the Court should reject the preliminary objections of the Respondents, judges *ad hoc* might sit in subsequent stages of the cases. In view of that decision the respondent Party in the case concerning *Serbia and Montenegro v. Germany* did not become entitled to choose a judge *ad hoc* under Article 37 of the Rules of Court.

The two judges *ad hoc* chosen by Liechtenstein and Germany in the case concerning *Certain Property (Liechtenstein v. Germany)* made the solemn declaration required by the Statute and Rules of Court at the opening of the hearings on the preliminary objections filed by the respondent Party in that case.

The two judges *ad hoc* chosen by the Parties in the case concerning *Application for Revision of the Judgment of 11 September 1992 in the Case concerning the* Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening) *(El Salvador v. Honduras)* made the solemn declaration required by the Statute and Rules of Court at the inaugural sitting of the Chamber formed to deal with the case.

The judge *ad hoc* chosen by the applicant Party in the case concerning *Avena and Other Mexican Nationals (Mexico v. United States of America)* made the solemn declaration at the opening of the hearings on the merits in that case.

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[1] See footnote 1, p. 98, above.

The two judges *ad hoc* chosen by the Parties in the case concerning the *Frontier Dispute (Benin/Niger)* made the solemn declaration required by the Statute and Rules of Court at the inaugural sitting of the Chamber formed to deal with the case.

(d) *Chamber of Summary Procedure*

(Statute, Art. 29)

During the period under review the Court composed the Chamber of Summary Procedure, consisting of five judges and two substitute judges (see p. 23 above).

(e) *Presidency of a Chamber*

(Statute, Art. 48; Rules, Arts. 18, para. 3, 44 and 92)

The President of the Chamber in the case concerning *Frontier Dispute (Benin/Niger)* fixed, in separate Orders, the time-limits for the filing of a Counter-Memorial and of a Reply by each of the Parties.

2. *Jurisdiction of the Court*

(a) *General*

(Statute, Arts. 36 and 38; Rules, Arts. 79 and 80)

In its Judgment of 6 November 2003, in the case concerning *Oil Platforms (Islamic Republic of Iran* v. *United States of America)* the Court found that it was open to Iran at that stage of the proceedings to raise objections to the jurisdiction of the Court to entertain the counter-claim of the United States or to its admissibility other than those addressed by the Order of 10 March 1988 by which the Court had accepted the admissibility of the counter-claim in sole regard of Article 80 of the Rules of Court. The Court however found that it could not uphold any of the five objections to jurisdiction and admissibility raised by Iran. With regard to the considerations of the Court on this matter, see above, pp. 214-215.

In its Judgment of 31 March 2004, in the case concerning *Avena and Other Mexican Nationals (Mexico* v. *United States of America)*, the Court found that the time-limit for the submissions of objections to the jurisdiction of the Court or to the admissibility of the application laid down by Article 79, paragraph 1, of the Rules of court as amended in 2000 applies only to preliminary objections. The Court thus concluded that it should not exclude from consideration the four objections of the Unites States to the jurisdiction of the Court and its five objections to the admissibility of the claims of Mexico. The Court however found that it could not uphold any of the objections raised by the United States. With regard to the considerations of the Court on this matter, see above, pp. 262-266.

(b) *Preliminary objections*

(Statute, Art. 36, para. 6; Rules, Arts. 31, 79, paras. 1 and 5)

In the case concerning the *Territorial and Maritime Dispute (Nicaragua v. Colombia)*, Nicaragua filed a written statement of its observations and submissions on the preliminary objections raised by Colombia within the time-limit fixed by the Court.

(c) *Application for Revision*

(Statute, Art. 61)

In its Judgment in the case concerning the *Application for Revision of the Judgment of 11 September 1992 in the Case concerning the* Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening) *(El Salvador v. Honduras)*, the Chamber of the Court found the application of the Republic of El Salvador inadmissible. With regard to the considerations of the Chamber on this matter, see above, pp. 249-258.

(d) *Advisory jurisdiction*

(Statute, Art. 65, para. 1)

In its Advisory Opinion in the case concerning *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, the Court observed at the outset that

> "When seised of a request for an advisory opinion, the Court must first consider whether it has jurisdiction to give the opinion requested and whether, should the answer be in the affirmative, there is any reason why it should decline to exercise any such jurisdiction (see *Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, I.C.J. Reports 1996 (I)*, p. 232, para. 10)."
>
> "The Court will thus first address the question whether it possesses jurisdiction to give the advisory opinion requested by the General Assembly on 8 December 2003. The competence of the Court in this regard is based on Article 65, paragraph 1, of its Statute, according to which the Court 'may give an advisory opinion on any legal question at the request of whatever body may be authorized by or in accordance with the Charter of the United Nations to make such a request'. The Court has already had occasion to indicate that:
>
> > 'It is . . . a precondition of the Court's competence that the advisory opinion be requested by an organ duly authorized to seek it under the Charter, that it be requested on a legal question, and that, except in the case of the General Assembly or the Security Council, that question should be one arising within the scope of the activities of the requesting organ.' (*Application for*

> *Review of Judgement No. 273 of the United Nations Administrative Tribunal, Advisory Opinion, I.C.J. Reports 1982*, pp. 333-334, para. 21.)"

Having found that it has jurisdiction (cf. para. 42 of the Opinion), the Court noted that

> "It has been contended in the present proceedings, however, that the Court should decline to exercise its jurisdiction because of the presence of specific aspects of the General Assembly's request that would render the exercise of the Court's jurisdiction improper and inconsistent with the court's judicial function."

The Court added in this connection that

> "[it] has recalled many times in the past that Article 65, paragraph 1, of its Statute, which provides that 'The Court *may* give an advisory opinion . . .' (emphasis added), should be interpreted to mean that the Court has discretionary power to decline to give an advisory opinion even if the conditions of jurisdiction are met (*Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, I.C.J. Reports 1996 (I)*, pp. 234-235, para. 14). The Court however is mindful of the fact that its answer to a request for an advisory opinion 'represents its participation in the activities of the Organization, and, in principle, should not be refused' (*Interpretation of Peace Treaties with Bulgaria, Hungary and Romania, First Phase, Advisory Opinion, I.C.J. Reports 1950*, p. 71; see also, for example, *Difference Relating to Immunity from Legal Process of a Special Rapporteur of the Commission on Human Rights, Advisory Opinion, I.C.J. Reports 1999 (I)*, pp. 78-79, para. 29.) Given its responsibilities as the 'principal judicial organ of the United Nations' (Article 92 of the Charter), the Court should in principle not decline to give an advisory opinion. In accordance with its consistent jurisprudence, only 'compelling reasons' should lead the Court to refuse its opinion (*Certain Expenses of the United Nations (Article 17, Paragraph 2, of the Charter), Advisory Opinion, I.C.J. Reports 1962*, p. 155; see also, for example, *Difference Relating to Immunity from Legal Process of a Special Rapporteur of the Commission on Human Rights, Advisory Opinion, I.C.J. Reports 1999 (I)*, pp. 78-79, para. 29.)
>
> The present Court has never, in the exercise of this discretionary power, declined to respond to a request for an advisory opinion. Its decision not to give the advisory opinion on the *Legality of the Use by a State of Nuclear Weapons in Armed Conflict* requested by the World Health Organization was based on the Court's lack of jurisdiction, and not on considerations of judicial propriety (see *I.C.J. Reports 1996 (I)*, p. 235, para. 14). Only on one occasion did the Court's predecessor, the Permanent Court of International Justice, take the view that it should not reply to a question put to it

(*Status of Eastern Carelia, Advisory Opinion, 1923, P.C.I.J., Series B No. 5*), but this was due to

> 'the very particular circumstances of the case, among which were that the question directly concerned an already existing dispute, one of the States parties to which was neither a party to the Statute of the Permanent Court nor a Member of the League of Nations, objected to the proceedings, and refused to take part in any way' (*Legality of the Threat or Use of Nuclear Weapons, I.C.J. Reports 1996 (I)*, pp. 235-236, para. 14)."

The Court then observed that

> "these considerations do not release the Court from the duty to satisfy itself, each time it is seised of a request for an opinion, as to the propriety of the exercise of its judicial function, by reference to the criterion of 'compelling reasons' as cited above. The Court will accordingly examine in detail and in the light of its jurisprudence each of the arguments presented to it in this regard."

Having done so the Court concluded that there was no compelling reason for it to use its discretionary power not to give that opinion.

With regard to the considerations of the Court on these matters, see above, pp. 283-292.

3. Contentious Procedure

(a) *Institution of proceedings*

(Statute, Art. 40; Rules, Arts. 38, 39 and 42)

In the case concerning *Maritime Delimitation in the Black Sea (Romania v. Ukraine)*, proceedings were instituted by means of an Application. The Registrar proceeded with the requisite communications, in conformity with the Statute and the Rules of Court.

On 4 August 2003, the Republic of Liberia filed an Application in respect of a dispute with Sierra Leone concerning the indictment and international arrest warrant of 7 March 2003, issued against Charles Ghankay Taylor, President of the Republic of Liberia, by a decision of the Special Court for Sierra Leone at Freetown. In the Application, Liberia also requested the Court to indicate provisional measures. With regard to the Court's jurisdiction, Liberia referred to its own declaration of 1952 accepting the Court's jurisdiction as compulsory, and stated that

> "[w]ith a view to Article 38 (5) of the Rules of the Court, [it] expects the Republic of Sierra Leone to accede for the purpose of this Application to the jurisdiction of the Court pursuant to Article 36 (2) of the Statute of the Court . . .".

According to Article 38, paragraph 5, of the Rules of Court, a copy of the Application was transmitted to the Government of Sierra Leone but the Application was not entered in the General List, nor was any action taken in the proceedings, pending the consent of Sierra Leone to the Court's jurisdiction for the purposes of the case.

(b) *Number of pleadings and fixing or extension of time-limits*

(Statute, Arts. 43, 48 and 62; Rules, Arts. 31 and 83)

In the case concerning the *Territorial and Maritime Dispute (Nicaragua v. Colombia)*, the Court fixed a time-limit for the filing by the applicant Party of a written statement of its observations and submissions on the preliminary objections raised by the respondent Party.

In the case concerning *Certain Criminal Proceedings in France (Republic of the Congo v. France)* the Court, taking account of the agreement of the Parties and of the particular circumstances of the case, authorized the submission of a Reply by the applicant Party and a Rejoinder by the respondent Party and fixed the respective time-limits for those pleadings.

With regard to the fixing of time-limits by the President of the Court and the President of the Chamber in the *Frontier Dispute (Benin/Niger)* case see above, pp. 305 and 307.

(c) *Filing of pleadings*

(Rules, Art. 50)

In the case concerning *Maritime Delimitation between Nicaragua and Honduras in the Caribbean Sea (Nicaragua v. Honduras)*, the Rejoinder of the respondent Party was filed within the time-limit fixed by the Court.

In the case concerning the *Territorial and Maritime Dispute (Nicaragua v. Colombia)*, the applicant Party filed a written statement of its observations and submissions on the preliminary objections raised by the respondent Party within the time-limits fixed by the Court.

In the case concerning the *Frontier Dispute (Benin/Niger)* both the Memorial and the Counter-Memorial of each of the Parties were filed within the time-limits fixed by the Court and the President of the Chamber.

In the case concerning *Avena and Other Mexican Nationals (Mexico v. United States of America)* the Counter-Memorial of the respondent Party was further filed within the time-limit extended by the President of the Court.

In the case concerning *Certain Criminal Proceedings in France (Republic of the Congo v. France)* the Memorial of the applicant Party and the Counter-Memorial of the respondent Party were also filed within the time-limit fixed by the President of the Court.

In the case concerning *Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore)*, the Memorial of each of the Parties was filed within the time-limit fixed by the President of the Court.

(d) *Joinder*

(Rules, Art. 47)

In the cases concerning *Legality of Use of Force (Serbia and Montenegro*[1] v. *Belgium)*; *(Serbia and Montenegro*[1] v. *Canada)*; *(Serbia and Montenegro*[1] v. *France)*; *(Serbia and Montenegro*[1] v. *Germany)*; *(Serbia and Montenegro*[1] v. *Italy)*; *(Serbia and Montenegro*[1] v. *Netherlands)*; *(Serbia and Montenegro*[1] v. *Portugal)*; *(Serbia and Montenegro*[1] v. *United Kingdom)*, the Registry informed the Parties by a letter of 23 December 2003 that the Court had decided that a joinder of the proceedings would not be appropriate at that stage.

(e) *Presentation of new documents*

(Statute, Art. 52; Rules, Art. 56)

By a letter of 23 December 2003, the Agents of the parties in the cases concerning *Legality of Use of Force (Serbia and Montenegro*[1] v. *Belgium)*; *(Serbia and Montenegro*[1] v. *Canada)*; *(Serbia and Montenegro*[1] v. *France)*; *(Serbia and Montenegro*[1] v. *Germany)*; *(Serbia and Montenegro*[1] v. *Italy)*; *(Serbia and Montenegro*[1] v. *Netherlands)*; *(Serbia and Montenegro*[1] v. *Portugal)*; *(Serbia and Montenegro*[1] v. *United Kingdom)*, were informed that the Court had fixed 27 February 2004 as the time-limit for the filing of any new documents, and that such documents, which should only relate to jurisdiction and to admissibility, would be dealt with as provided for in Article 56 of the Rules of Court. By a joint letter of 27 February 2004 the Agents of the respondent States in these cases indicated that their Governments wished to produce new documents pursuant to Article 56 of the Rules. In the absence of any objection by Serbia and Montenegro, to which the documents had been communicated in accordance with paragraph 1 of that Article, the Court decided that they would be added to the file of each case. By letter of 26 February 2004 Serbia and Montenegro indicated that in the case against Belgium it wished to produce new documents pursuant to Article 56 of the Rules. In accordance with paragraph 1 of that Article, those documents were communicated to Belgium, which, by letter of 12 March 2004, informed the Court that it did not object to their production.

In the case concerning the *Application for Revision of the Judgment of 11 September 1992 in the Case concerning the* Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening) *(El Salvador* v. *Honduras)*, Honduras filed its comments on the additional documents filed by El Salvador and authorized by the Chamber, together with four supporting documents, within the time-limit fixed by the Chamber.

In the case concerning *Avena and Other Mexican Nationals (Mexico* v. *United States of America)*, on 28 November 2003 and 2 December

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[1] See footnote 1, p. 98, above.

2003, Mexico filed various documents which it wished to produce in accordance with Article 56 of the Rules of Court. By letters dated 2 December 2003 and 5 December 2003, the Agent of the United States informed the Court that his Government did not object to the production of these new documents and that it intended to exercise its right to comment upon these documents and to submit documents in support of its comments, pursuant to paragraph 3 of that Article. By letters dated 9 December 2003, the Registrar informed the Parties that the Court had taken note that the United States had no objection to the production of these documents and that accordingly counsel would be free to refer to them in the course of the hearings. On 10 December 2003, the Agent of the United States filed the comments of his Government on the new documents produced by Mexico, together with a number of documents in support of those comments.

(f) *Accessibility of pleadings to the public*

(Rules, Art. 53, para. 2)

In the cases concerning *Legality of Use of Force* (*Serbia and Montenegro*[1] v. *Belgium*); (*Serbia and Montenegro*[1] v. *Canada*); (*Serbia and Montenegro*[1] v. *France*); (*Serbia and Montenegro*[1] v. *Germany*); (*Serbia and Montenegro*[1] v. *Italy*); (*Serbia and Montenegro*[1] v. *Netherlands*); (*Serbia and Montenegro*[1] v. *Portugal*); (*Serbia and Montenegro*[1] v. *United Kingdom*), *Certain Property* (*Liechtenstein* v. *Germany*), *Application for Revision of the Judgment of 11 September 1992 in the Case concerning the* Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening) (*El Salvador* v. *Honduras*) and *Avena and Other Mexican Nationals* (*Mexico* v. *United States of America*), the Court, after ascertaining the views of the Parties, decided to make the pleadings and documents annexed thereto accessible to the public on the opening of the oral proceedings.

(g) *Oral proceedings*

(Statute, Arts. 43, 45 and 46; Rules, Arts. 54, 58, 59 and 92, para. 3)

The hearings in the cases concerning *Legality of Use of Force* (*Serbia and Montenegro*[1] v. *Belgium*); (*Serbia and Montenegro*[1] v. *Canada*); (*Serbia and Montenegro*[1] v. *France*); (*Serbia and Montenegro*[1] v. *Germany*); (*Serbia and Montenegro*[1] v. *Italy*); (*Serbia and Montenegro*[1] v. *Netherlands*); (*Serbia and Montenegro*[1] v. *Portugal*); (*Serbia and Montenegro*[1] v. *United Kingdom*), *Certain Property* (*Liechtenstein* v. *Germany*), *Application for Revision of the Judgment of 11 September 1992 in the Case concerning the* Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening) (*El Salvador* v.

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[1] See footnote 1, p. 98, above.

Honduras) and *Avena and Other Mexican Nationals (Mexico* v. *United States of America)* each consisted of two rounds of oral arguments in which both States participated.

Hearings were due to open on 10 November 2003 in the case concerning *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo* v. *Uganda)*. Following a request of the Democratic Republic of the Congo to adjourn the hearings to a later date, and after an indication by Uganda that it supported the proposal of the Congo, the Court decided to postpone the opening of the oral proceedings to a date to be fixed subsequently. See p. 242, above.

The Chamber in the case concerning *Application for Revision of the Judgment of 11 September 1992 in the Case concerning the* Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening) *(El Salvador* v. *Honduras)* held two rounds of hearings on the admissibility of the application for revision made by the applicant State.

(h) *Final submission*

(Rules, Art. 60, para. 2)

In the second round of oral arguments in the cases concerning *Legality of Use of Force (Serbia and Montenegro*[1] v. *Belgium); (Serbia and Montenegro*[1] v. *Canada); (Serbia and Montenegro*[1] v. *France); (Serbia and Montenegro*[1] v. *Germany); (Serbia and Montenegro*[1] v. *Italy); (Serbia and Montenegro*[1] v. *Netherlands); (Serbia and Montenegro*[1] v. *Portugal); (Serbia and Montenegro*[1] v. *United Kingdom)*, *Certain Property (Liechtenstein* v. *Germany)*, *Application for Revision of the Judgment of 11 September 1992 in the Case concerning the* Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening) *(El Salvador* v. *Honduras)* and *Avena and Other Mexican Nationals (Mexico* v. *United States of America)*, the Agents of the Parties read the final submission of their Governments, which they also submitted in writing.

(i) *Discontinuance*

(Statute, Art. 48; Rules, Art. 88)

In each of the cases concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United Kingdom)* and *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United States of America)*, the Parties notified the Court that they had "agreed to discontinue with prejudice the proceedings". Following those notifications, the President of the Court made an Order in each of the cases, placing on record the discontinuance of the proceedings with prejudice, by agreement of the Parties, and directing the removal of the case from the List.

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[1] See footnote 1, p. 98, above.

(j) *Separate and dissenting opinions*

(Statute, Art. 57; Rules, Art. 95, para. 2)

In the case concerning *Oil Platforms (Islamic Republic of Iran* v. *United States of America)*, the Vice-President and one judge appended a declaration to the Judgment of the Court; six judges (including the one who had appended a declaration) and the judge *ad hoc* appended separate opinions; and two judges appended dissenting opinions.

In the case concerning *Application for Revision of the Judgment of 11 September 1992 in the Case concerning the* Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening) *(El Salvador* v. *Honduras)*, one of the judges *ad hoc* appended a dissenting opinion to the Judgment of the Chamber.

In the case concerning *Avena and Other Mexican Nationals (Mexico* v. *United States of America)*, the President and the Vice-President appended declarations to the Judgment of the Court, while three judges and the judge *ad hoc* appended separate opinions.

(k) *Reading of the decision of the Court*

(Statute, Art. 58; Rules, Arts. 94 and 95)

The Judgments of the Court in the cases concerning *Oil Platforms (Islamic Republic of Iran* v. *United States of America)* and *Avena and Other Mexican Nationals (Mexico* v. *United States of America)* were read at a public sitting; in view of the length of the text, the President omitted or summarized certain passages. A duly signed and sealed copy was transmitted to each of the Agents of the parties at the end of the reading.

The Judgment of the Chamber in the case concerning *Application for Revision of the Judgment of 11 September 1992 in the Case concerning the* Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening) *(El Salvador* v. *Honduras)* was read at a public sitting; in view of the length of the text, the President of the Chamber omitted or summarized certain passages. A duly signed and sealed copy was transmitted to each of the Agents of the Parties at the end of the reading.

(l) *Revision*

(Statute, Art. 61; Rules, Arts. 99 and 100)

During the period under review, the Chamber of the Court formed to deal with the *Application for Revision of the Judgment of 11 September 1992 in the Case concerning the* Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening) *(El Salvador* v. *Honduras)* held hearings and rendered its Judgment (see above, pp. 249-258). The Chamber found that the Application for revision was inadmissible.

4. *Advisory Proceedings*

(a) *Request for opinion*

(Statute, Arts. 65 and 66, para. 1; Rules, Arts. 102, 103 and 104)

In the case concerning *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, the Court was seised of a request for an advisory opinion from the General Assembly of the United Nations (see above, p. 283). The request was transmitted to the Court by the Secretary-General. The Registrar immediately notified the request to all States entitled to appear before the Court.

(b) *Dossier prepared by the Secretariat of the United Nations*

(Statute, Art. 65, para. 2; Rules, Art. 104)

In the case concerning *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, the Secretary-General of the United Nations transmitted to the Court a dossier of documents likely to throw light upon the questions on which the advisory opinion is requested.

(c) *Special and direct communication*

(Statute, Art. 66, para. 2)

In the case concerning *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, the Court decided, by an Order, that the United Nations and its Member States were likely to be able to furnish information on all aspects raised by the question. Ruling on requests submitted subsequently by the League of Arab States and the Organization of the Islamic Conference, the Court decided that those two international organizations also were likely to be able to furnish information on the question submitted to the Court and that consequently they might for that purpose submit written statements.

The Court further decided in the same case that, in the light of resolution ES-10/14 and the report of the Secretary-General transmitted with the request, and taking into account the fact that the General Assembly had granted Palestine a special status of observer and that the latter was co-sponsor of the draft resolution requesting the advisory opinion, Palestine might also submit a written statement on the question.

(d) *Fixing of time-limits*

(Statute, Arts. 48 and 66, para. 2, and 68; Rules, Art. 103)

In the case concerning *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, the Court, in view of the urgency of the request, fixed a relatively short time-limit within which written statements on the question before the Court might be submitted.

(e) *Submission of written statements*

(Statute, Art. 66, para. 2; Rules, Art. 105, para. 1)

In the case concerning *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, written statements were submitted by the United Nations, 44 of its Member States (one of which also submitted a statement on behalf of the European Union), Palestine, the League of Arab States and the Organization of the Islamic Conference.

(f) *Accessibility of documentation to the public*

(Rules, Art. 106)

In the case concerning *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, the Court decided to make the written statements submitted to it accessible to the public, with effect from the opening of the oral proceedings.

(g) *Oral proceedings*

(Statute, Arts. 66 and 68; Rules, Arts. 47, 102 and 105, para. 2 *(b)*)

In the case concerning *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, the Court decided to hold public hearings during which oral statements and comments might be presented to it by the United Nations and its Member States as well as by Palestine, the League of Arab States and the Organization of the Islamic Conference, regardless of whether or not they had submitted written statements. At those hearings oral statements were made by 12 United Nations Member States, by Palestine, and by the League of Arab States and the Organization of the Islamic Conference (see above, p. 285).

(h) *Separate opinions and declaration*

(Rules, Art. 107, para. 3)

In the case concerning *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, six judges appended separate opinions to the Advisory Opinion of the Court. One judge appended a declaration (see above, p. 305).

(i) *Public reading of the Advisory Opinion*

(Statute, Art. 69; Rules, Art. 107)

The Advisory Opinion in the case concerning *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* was read at a public sitting; in view of the length of the text, the President omitted or summarized certain passages.

III. MUSEUM OF THE COURT

On 17 May 1999, the Secretary-General of the United Nations, H.E. Mr. Kofi Annan, inaugurated the Museum of the International Court of Justice (and of the other institutions in the Peace Palace) situated in the south wing of the Peace Palace.

Its collection presents an overview of the theme "Peace through Justice", highlighting the history of the Hague Peace Conferences of 1899 and 1907; the creation at that time of the Permanent Court of Arbitration; the consequent construction of the Peace Palace as a seat for international justice; and the Permanent Court of International Justice and the present Court (the genesis of the United Nations; the Court and its Registry; the attire of the Judges; the Bench at present; the provenance of Judges and cases; the procedure of the Court; the world's legal systems; the case-law of the Court; prominent visitors).

IV. VISITS

A. Official Visits of Heads of State

Visit of the Prime Minister of Madagascar

On 23 October 2003, H.E. Mr. Jacques Sylla, Prime Minister of Madagascar, was received by the Court at a private meeting of the Court, held in its Deliberation Room.

The President of the Court, Judge Shi Jiuyong, gave a welcoming speech to the Prime Minister. The President declared that it was "the first time that an African Head of Government [had] been invited to join Members of the Court for a working session in the deliberation room". He added that the Prime Minister's visit confirmed the trust that Madagascar had placed in the Court by depositing, in 1992, a declaration accepting the compulsory jurisdiction of the Court, under Article 36, paragraph 2, of the Statute. The President's speech was followed by a presentation by Judge Vereshchetin on "Immunities in International Law, in the Jurisprudence of the ICJ".

The Prime Minister of Madagascar took the floor thereafter, declaring that he was

> "proud to have been received by the world's highest judicial body, which makes an eminent contribution to the establishment of peace through the law and which, in the current international context, has a fundamental role to play in maintaining a balance between contradictory elements: the rule of law, on the one hand, and, on the other, the principle of respect for independent States, together with the protection of acts relating to the various functions assumed by their representatives".

A discussion followed.

Visit of the President of the Swiss Confederation

On 25 May 2004 H.E. Dr. Joseph Deiss, President of the Swiss Confederation, was received by the Court.

At a solemn sitting organized in the Great Hall of Justice and attended by the diplomatic corps and representatives of the Dutch authorities, the International Criminal Tribunal for the former Yugoslavia, the International Criminal Court, the Iran-United States Claims Tribunal and other international institutions located in The Hague, the President of the Court made a speech, to which the President of the Swiss Confederation replied.

President Shi recalled Switzerland's commitment to the promotion of peace and international justice. In addition to having hosted for almost 150 years a large number of international organizations, "Switzerland has produced a long line of eminent jurists, philosophers and humanitarian activists whose contributions . . . have earned them a well-deserved place in the annals of history", he stated. He commended the "supreme achievement" of Henry Dunant, whose vision led to the adoption of the Geneva conventions and to the creation of the International Committee of the Red Cross, and praised the work on international law of Max Huber, who was a Member and then President of the International Permanent Court of Justice, predecessor of the ICJ, in the 1920s. His work "continues to serve as a powerful inspiration to both lawyers and humanitarian activists alike", he noted. President Shi further observed that "while Switzerland chose not to join the United Nations after the Second World War (which it did in 2002) for reasons of neutrality, this position has not affected its support for the work of the International Court of Justice", since it became a party to the Statute of the Court on 28 July 1948 and on the same day its declaration recognizing as compulsory the jurisdiction of the Court took effect. "Since that time", added the President, "Switzerland has participated in contentious and advisory proceedings before the Court, encouraging the latter in the accomplishment of its mission".

In reply, President Deiss stated that his country's natural commitment to an international order founded on the rule of law could be explained by the fact that the Swiss political culture implied three fundamental aspects: federalism, direct democracy and pragmatism. Those aspects, he stressed, "have enabled Switzerland to become a country in which different cultures, languages and religions co-exist peacefully". "Switzerland's neutrality", he added, "does not prevent it from playing an active role in favour of an international peaceful order. It is an instrument of foreign policy that has not ceased to adapt to the global context." Switzerland, President Deiss further stated, has continuously supported efforts to develop international judicial instruments. He concluded:

> "The International Court of Justice is the guardian of international law and the driving force in the peaceful resolution of differences

> between States. Together with 'International Geneva' – a privileged site for humanitarian law, human rights and disarmament – it also makes an invaluable contribution to the construction of an international order that is more just, stable, secure and peaceful. Switzerland can but resolutely support the work of your Court."

B. Other Visits

During the period under review, the President and Members of the Court, the Registrar and officials of the Registry received further a great number of visits of, *inter alia*, members of government, diplomats, parliamentary delegations, presidents and members of judicial bodies, as well as other high officials.

A great number of groups of scholars and academics, lawyers and legal professionals, as well as others, were also received.

V. Addresses, Lectures and Publications on the Work of the Court

During the period under review, the President of the Court, in his official capacity, addressed on 27 October 2003 the meeting of the Legal Advisers to the Ministers for Foreign Affairs of the United Nations Member States. On 29 October 2003, he also gave a short address to the Sixth Committee of the General Assembly. On 30 October 2003, he gave a speech to the Asian-African Legal Consultative Organization. President Shi addressed the 50th plenary meeting of the fifty-eighth session of the General Assembly on 31 October 2003, on the occasion of the presentation of the Court's Annual Report. On 14 April 2004, the President addressed the United Nations University in Tokyo, on the relations between Asia and the Court, while, on 7 July 2004, he addressed the United Nations International Law Commission, during its fifty-sixth session (second part), which was held at Geneva.

VI. Report and Representation of the Court at the General Assembly

On the occasion of the fifty-eighth session of the General Assembly, the Court submitted a report on its activities covering the period from 1 August 2002 to 31 July 2003 (A/58/4). This report was divided into an introductory summary and ten further chapters, relating to the organization, jurisdiction and judicial work of the Court, visits, lectures, the Court's publications and documents, and administrative and budgetary issues. The General Assembly took note of the report at its 50th plenary meeting held on 31 October 2003.

On that occasion the President, who, with the Registrar, represented the Court at the fifty-eighth session of the General Assembly, addressed that body on the role and functioning of the Court (A/58/PV.50). The full text of the address is reproduced in the Appendix to this Chapter (see below, p. 324). Following the presentation of the Court's report by its President, the representatives of Japan, Kenya, Madagascar, Malaysia, Nigeria, Philippines, and the Russian Federation made statements. Those Members of the Court who were present in New York also attended part of the fifty-eighth session of the General Assembly.

A report dealing with the period 1 August 2003 to 31 July 2004 will be submitted on the occasion of the fifty-ninth session of the General Assembly (A/59/4).

VII. Applications from Private Persons

Private persons frequently apply to the Court for the purpose of obtaining a decision on matters at issue between them and the authorities of their own or of another country. Between 1 August 2003 and 31 July 2004 the Court received approximately 2,000 requests of this kind. The writers were informed that, according to Article 34 of the Statute, "only States may be parties in cases before the Court".

APPENDIX

1. Action Pursuant to Advisory Opinions of the Court

The present heading contains the information received in the Registry between 1 August 2003 and 31 July 2004 concerning action taken pursuant to certain Advisory Opinions of the Court. The Registry, which does not take the initiative of seeking such information, publishes it without comment as and when it is received and can accept no responsibility in connection with it.

Legality of the Threat or Use of Nuclear Weapons

By a note dated 15 October 1996 the Secretary-General of the United Nations transmitted the text of the Advisory Opinion given by the Court on 8 July 1996 to the General Assembly (United Nations doc. A/51/218)[1].

At the 79th plenary meeting of its fifty-first session, held on 10 December 1996, the General Assembly adopted resolution 51/45 M, at the 67th plenary meeting of its fifty-second session, held on 9 December 1997, resolution 52/38 O, at the 79th plenary meeting of its fifty-third session, held on 4 December 1998, resolution 53/77 W, at the 69th plenary meeting of its fifty-fourth session, held on 1 December 1999, resolution 54/54 Q, at the 69th plenary meeting of its fifty-fifth session, held on 20 November 2000, resolution 55/33 X, at the 68th plenary meeting of its fifty-sixth session, held on 29 November 2001, resolution 56/24 S, and at the 57th plenary meeting of its fifty-seventh session, held on 22 November 2002, resolution 57/85, the full texts of which are reproduced in *I.C.J. Yearbook 1996-1997*, pp. 205-206, *I.C.J. Yearbook 1997-1998*, pp. 286-288, *I.C.J. Yearbook 1998-1999*, pp. 313-315, *I.C.J. Yearbook 1999-2000*, pp. 278-280, *I.C.J. Yearbook 2000-2001*, pp. 317-319, *I.C.J. Yearbook 2001-2002*, pp. 306-307, and *I.C.J. Yearbook 2002-2003*, pp. 325-327, respectively.

At the 71st plenary meeting of its fifty-eighth session, held on 8 December 2003, the General Assembly adopted resolution 58/46, the full text of which is reproduced below:

"Follow-up to the Advisory Opinion of the International Court of Justice on the *Legality of the Threat or Use of Nuclear Weapons*

The General Assembly,

Recalling its resolutions 49/75 K of 15 December 1994, 51/45 M of 10 December 1996, 52/38 O of 9 December 1997, 53/77 W of 4 December 1998, 54/54 Q of 1 December 1999, 55/33 X of 20 November 2000 and 56/24 S of 29 November 2001 and 57/85 of 22 November 2002,

Convinced that the continuing existence of nuclear weapons poses a threat to all humanity and that their use would have catastrophic consequences for all life on Earth, and recognizing that the only defence against a nuclear catastrophe is the total elimination of nuclear weapons and the certainty that they will never be produced again,

Reaffirming the commitment of the international community to the goal of the total elimination of nuclear weapons and the creation of a nuclear-weapon-free world,

Mindful of the solemn obligations of States parties, undertaken in article VI of the Treaty on the Non-Proliferation of Nuclear Weapons, particularly to pursue negotiations in good faith on effective measures relating to cessation of the nuclear-arms race at an early date and to nuclear disarmament,

Recalling the principles and objectives for nuclear non-proliferation and disarmament adopted at the 1995 Review and Extension Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons,

Emphasizing the unequivocal undertaking by the nuclear-weapon States to accomplish the total elimination of their nuclear arsenals leading to nuclear disarmament, adopted at the 2000 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons,

Recalling the adoption of the Comprehensive Nuclear-Test-Ban Treaty in its resolution 50/245 of 10 September 1996, and expressing its satisfaction at the increasing number of States that have signed and ratified the Treaty, *Recognizing with satisfaction* that the Antarctic Treaty and the treaties of Tlatelolco, Rarotonga, Bangkok and Pelindaba are gradually freeing the entire southern hemisphere and adjacent areas covered by those treaties from nuclear weapons,

Stressing the importance of strengthening all existing nuclear-related disarmament, arms control and reduction measures,

Recognizing the need for a multilaterally negotiated and legally binding instrument to assure non-nuclear-weapon States against the threat or use of nuclear weapons,

Reaffirming the central role of the Conference on Disarmament as the single multilateral disarmament negotiating forum, and regretting the lack of progress in disarmament negotiations, particularly nuclear disarmament, in the Conference during its 2003 session,

Emphasizing the need for the Conference on Disarmament to commence negotiations on a phased programme for the complete elimination of nuclear weapons with a specified framework of time,

Expressing its deep concern at the lack of progress in the implementation of the thirteen steps to implement article VI of the Treaty on the Non-Proliferation of Nuclear Weapons agreed to at the 2000 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons,

Desiring to achieve the objective of a legally binding prohibition of the development, production, testing, deployment, stockpiling, threat or use of nuclear weapons and their destruction under effective international control,

Recalling the advisory opinion of the International Court of Justice on the *Legality of the Threat or Use of Nuclear Weapons*, issued on 8 July 1996,

Taking note of the relevant portions of the note by the Secretary-General relating to the implementation of resolution 57/85,

1. *Underlines once again* the unanimous conclusion of the International Court of Justice that there exists an obligation to pursue in good faith and bring to a conclusion negotiations leading to nuclear disarmament in all its aspects under strict and effective international control;

2. *Calls once again upon* all States immediately to fulfil that obligation by commencing multilateral negotiations leading to an early conclusion of a nuclear weapons convention prohibiting the development, production, testing, deployment, stockpiling, transfer, threat or use of nuclear weapons and providing for their elimination;

3. *Requests* all States to inform the Secretary-General of the efforts and measures they have taken on the implementation of the present resolution and nuclear disarmament, and requests the Secretary-General to apprise the General Assembly of that information at its fifty-ninth session;

4. *Decides* to include in the provisional agenda of its fifty-ninth session the item entitled 'Follow-up to the advisory opinion of the International Court of Justice on the *Legality of the Threat or Use of Nuclear Weapons*'." [Footnotes not reproduced.]

2. THE ROLE AND FUNCTIONING OF THE COURT

At the 50th meeting of the fifty-eighth session of the General Assembly, held on 31 October 2003, at which the Assembly took note of the report of the Court for the period from 1 August 2002 to 31 July 2003 (see above, p. 320), the President of the Court, Judge Shi Jiuyong, gave the following address:

"Mr. President, Excellencies, Ladies and Gentlemen,

It is an honour for me to address the General Assembly of the United Nations for the first time in my presidency on the occasion of its examination of the Report of the International Court of Justice for the period 1 August 2002 to 31 July 2003. This yearly contact which has been established between the Court and the General Assembly since 1968 allows for an invaluable direct interchange between these two sister organs of the United Nations. In particular, I wish to express my sincere thanks to the Assembly for its continued interest in the work of the Court, principal judicial organ of the United Nations, whose vocation is to deal with legal disputes submitted to it by Member States, as well as legal questions put to it by other organs of the United Nations and duly authorized specialized agencies.

I am particularly pleased to address you today under the distinguished presidency of Mr. Julian R. Hunte, Minister for External Affairs, International Trade and Civil Aviation, of Saint Lucia, to whom I offer my warm congratulations on his election as President of the fifty-eighth session of the General Assembly. He has my sincerest wishes for every success in his eminent office. I should like particularly to commend him for his unflagging determination to pursue the struggle against the principal sources of conflict, and for his vision of the international community, which encompasses peaceful coexistence between States and equity among nations large and small, as well as a commitment to strengthening civil society and encouraging sustainable development, in particular in the context of Small Island States.

Mr. President,

The Court has, as usual, transmitted its annual report to the Assembly and this report has been circulated to you together with an introductory summary. A corrigendum to the report relating to the case concerning *Avena and Other Mexican Nationals (Mexico v.*

United States of America) has further been distributed this week. I will not impose on the General Assembly a complete reading of these documents. I would nevertheless like to summarize and stress some of the essential elements therein reported.

May I begin by recalling that there are currently 191 States which are parties to the Statute of the Court, over 60 of which have accepted the compulsory jurisdiction of the Court in accordance with Article 36, paragraph 2, of the Statute. Furthermore, approximately 300 treaties refer to the Court in relation to the settlement of disputes arising from their application or interpretation. Since my predecessor, President Guillaume, addressed you in October 2002, the International Court of Justice has been as busy as ever. As of 31 August 2003 the docket of the Court stood at 25 cases. This number now stands at 23 following the removal from the Court's List in early September 2003, at the joint request of the Parties, of two cases brought before the Court in 1992 by Libya, against the United Kingdom and against the United States of America, in respect of disputes concerning the interpretation and application of the 1971 Montreal Convention arising from the aerial incident at Lockerbie. These cases come from all over the world, four being between African States, one between Asian States, eleven between European States and three between Latin American States, whilst four are of an intercontinental character. This international distribution reflects the universal composition of the Court itself, comprised as it currently is of Members from Brazil, China, Egypt, France, Germany, Japan, Jordan, Madagascar, the Netherlands, the Russian Federation, Sierra Leone, Slovakia, the United Kingdom, the United States of America and Venezuela.

The subject-matter of the cases before the Court is extremely varied. As is frequently the case, the Court's docket contains a number of cases concerning territorial disputes between neighbouring States seeking a determination of their land and maritime boundaries, or a decision as to which of them has sovereignty over particular areas. This is the position for four cases concerning, respectively, Nicaragua and Honduras, Nicaragua and Colombia, Benin and Niger, and Malaysia and Singapore. Another classic type of dispute is where a State complains of the treatment of its nationals in another State. This is the position in the cases of Guinea against the Democratic Republic of the Congo, Liechtenstein against Germany, Mexico against the United States of America, and the Republic of the Congo against France.

Other cases relate to events which your Assembly or the Security Council have had to address. Thus Iran has brought proceedings over the alleged destruction of oil platforms by the United States in 1987 and 1988. Bosnia and Herzegovina and Croatia have, in two separate cases, sought the condemnation of Serbia and Montenegro (formerly the Federal Republic of Yugoslavia) for violation of the

1948 United Nations Convention on the Prevention and Punishment of the Crime of Genocide. Serbia and Montenegro itself has brought proceedings against eight member States of NATO, challenging the legality of their action in Kosovo. Finally, the Democratic Republic of the Congo, in two separate cases, contends that it has been the victim of armed aggression on the part of Uganda and Rwanda, respectively.

The Court's decisions in the course of the period under review include in particular three judgments on merits and two orders on request for provisional measures.

In October 2002, the Court gave a judgment in the case concerning the *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon* v. *Nigeria: Equatorial Guinea intervening)*, thereby putting an end to a long-standing territorial and frontier dispute. The Court decided that sovereignty over Bakassi lay with Cameroon. The Court also determined the boundary in the Lake Chad area and defined with extreme precision the course of the land boundary between the two States in 17 other disputed sectors. The Court then went on to determine the maritime boundary between the two States. Drawing upon the consequences of its determination of the land boundary, the Court held that each of the two States is under an obligation expeditiously and without condition to withdraw its administration and military and police forces from areas falling within the sovereignty of the other. In the reasoning of its Judgment the Court also noted that the implementation of the Judgment would provide the parties with a beneficial opportunity for co-operation. It took note of Cameroon's undertaking at the hearings that, 'faithful to its traditional policy of hospitality and tolerance', it 'will continue to afford protection to Nigerians living in the Bakassi Peninsula and in the Lake Chad area'. Finally, the Court rejected each Party's State responsibility claims against the other.

In December 2002 the Court rendered its judgment in the case concerning *Sovereignty over Pulau Ligitan and Pulau Sipadan (Indonesia/Malaysia)*, in which it found that the 1891 Convention between Great Britain and the Netherlands, on which Indonesia based its claim to sovereignty over the islands, could not be taken to establish a title to sovereignty, and that neither of the parties had obtained title to Ligitan and Sipadan by succession. It concluded, on the basis of '*effectivités*' (activities evidencing an actual, continued exercise of State authority over the islands), that sovereignty over the islands of Ligitan and Sipadan belonged to Malaysia.

The third judgment rendered by the Court in the period in question related to its previous decision on preliminary objections of 11 July 1996 in the case concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina* v. *Serbia and Montenegro)*, in which it had found, *inter alia*, that on the basis of Article IX of the Convention on the

Prevention and Punishment of the Crime of Genocide, it had jurisdiction to adjudicate upon the dispute. In April 2001, Serbia and Montenegro filed an Application for revision of that decision, subsequent to its admission to the United Nations on 1 November 2000 – a fact which, it contended, proved that it was not a Member of the United Nations, was not a State party to the Statute of the Court, and was not a State party to the Genocide Convention prior to that date. In its Judgment of 3 February 2003, the Court rejected the request for revision, on the grounds that the recent admission of the Applicant to the United Nations could not be regarded as a new fact within the meaning of Article 61 of its Statute, capable of founding a request for revision of the 1996 Judgment. In other words, the Court found that a fact which had occurred several years after a judgment had been given could not be regarded as a new fact for the purposes of the Court's revision procedure.

Also in February 2003, the Court issued an order indicating provisional measures in the case submitted by Mexico on 9 January 2003 concerning a dispute over alleged violations of the Vienna Convention on Consular Relations with respect to 54 Mexican nationals sentenced to death in certain states of the United States of America. The Court stated that the United States 'shall take all measures necessary to ensure that [three of the Mexican nationals, who are at risk of execution in the month coming,] are not executed pending final judgment' in the case; and that the United States 'shall inform the Court of all measures taken in implementation of the Order'.

In June 2003, the Court issued another order on a request for provisional measures, in the case concerning *Certain Criminal Proceedings in France (Republic of the Congo v. France)*. In its Application of 9 December 2002, the Republic of the Congo had sought to institute proceedings against France with a view to obtaining the annulment of the investigation and prosecution measures taken by the French judicial authorities, further to a complaint for crimes against humanity and torture filed by various associations against the President of the Republic of the Congo, the Congolese Minister of the Interior, and other individuals including the Inspector-General of the Congolese Armed Forces. The Application also stated that, in connection with these proceedings, an investigating judge of the Meaux *Tribunal de grande instance* had issued a warrant for the President of the Republic of the Congo to be examined as witness.

The Republic of the Congo further stated that it sought to found the jurisdiction of the Court, pursuant to Article 38, paragraph 5, of the Rules of Court, 'on the consent of the French Republic, which will certainly be given'. This provision in the Rules refers to situations where the applicant State proposes to found the jurisdiction of the Court upon a consent thereto yet to be given or manifested by the

State against which such application is made. In such circumstances, the case does not proceed unless and until the defendant State consents to jurisdiction. Following France's consent, given in April 2003, to the jurisdiction of the Court to entertain the Application, the case was entered in the Court's List and the proceedings were opened. The request for the indication of a provisional measure which the Republic of the Congo had submitted on the same day as the Application was activated also by the acceptance of the Court's jurisdiction by France. In that request, the Republic of the Congo sought 'an order for the immediate suspension of the proceedings being conducted by the investigating judge of the Meaux *Tribunal de grande instance*'. In its Order on provisional measures, the Court found, however, on the facts before it, that no risk of irreparable prejudice existed with regard to the rights claimed by the Applicant, and rejected the Congo's request.

The case brought by the Republic of the Congo is the first case of the kind contemplated by Article 38, paragraph 5, of the Rules of Court in which the State named as respondent, on being notified of the application made against it, has in fact agreed to accept jurisdiction. The provision whereby such an application is ineffective until the other State accepts jurisdiction was introduced to discourage proceedings from being brought before the Court for purely political reasons, in the absence of any jurisdictional title. Nevertheless it remains open to any State to use this means of extending an invitation to another State to confer jurisdiction on the Court in a specific dispute, and thus to demonstrate its confidence in the Court. Furthermore, since France was free to disregard the application, the fact that it chose to accept jurisdiction, to appear and defend the case, is an encouraging tribute to the value of judicial proceedings as a means of pacific settlement of disputes.

Following hearings earlier this year, the Court has recently completed its deliberations on the *Oil Platforms (Islamic Republic of Iran* v. *United States of America)* case, concerning the destruction by United States Navy warships, in 1987 and 1988, of three offshore oil production complexes owned and operated by the National Iranian Oil Company. The Court will deliver its Judgment, in this case, in open court shortly after my return to The Hague. Following hearings in September 2003, the Chamber of the Court in the case concerning *Application for Revision of the Judgment of 11 September 1992 in the Case concerning the* Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening) *(El Salvador* v. *Honduras)*, is similarly holding deliberations. Hearings are also scheduled for November 2003 in the case concerning *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo* v. *Uganda)*; and hearings in the case concerning *Avena and Other Mexican Nationals (Mexico* v. *United States of America)* are due to open in December 2003.

In addition to the Chamber formed for the above case between El Salvador and Honduras, the Court has, as requested by the parties, also formed a five-Member Chamber to deal with a boundary dispute between Benin and Niger. The Court is thus maintaining its work rate and looks forward to an equally busy schedule next year.

Before concluding this part of my statement, I would like to stress the fact that both judgments and orders indicating provisional measures made by the Court are binding on the parties. For it is indeed this binding nature of its decisions which lies at the heart of the Court's mission to solve legal disputes between States and is the necessary condition for the successful achievement of that mission. Under Article 94, paragraph 1, of the Charter, '[e]ach Member of the United Nations undertakes to comply with the decision of the International Court of Justice in any case to which it is a party'. Article 60 of the Statute of the Court adds that judgments of the Court are 'final and without appeal'. The binding effect of orders indicating provisional measures under Article 41 of the Statute of the Court has recently been confirmed by the judgment rendered by the Court in the *LaGrand* case. The Court has therefore no doubt that parties to litigation before it will continue to implement its decisions, as they have done in the past.

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Mr. President,

As my predecessors have endeavoured to point out, the Court is always aware of its duty to deal with cases as promptly and efficiently as possible. The working methods of the Court are subject to permanent re-examination in an effort to avoid delays in the Court's proceedings. This constant quest to meet the expectations of the parties before the Court is necessary in view of the considerable number of cases on its docket. Furthermore, many cases have been rendered more complex as a result of preliminary objections by respondents to jurisdiction or admissibility, and of counter-claims and applications for permission to intervene, not to mention requests by applicants, and even sometimes respondents, for the indication of provisional measures, which have to be dealt with as a matter of urgency. In this regard, in order to improve efficiency the internal mechanisms of the Court are under constant review. But we also ask parties before the Court to co-operate in achieving our common goal. For example, the Court has issued a number of Practice Directions, including Practice Direction IX, which is aimed at limiting the late filing of documents in accordance with Article 56 of the Rules of Court. The Court has also noted the increasing tendency of parties to use requests for the indication of provisional measures as an opportunity to provide an early outline of their cases on the merits. It is therefore looking into ways of emphasizing — and indeed requiring — that in hearings on such requests parties should focus on the legal conditions for the indication of provisional measures.

The Court is also aware of the importance of keeping pace with technological developments in order to improve the internal functioning of its Registry. The Court's well-regarded website and its intranet (the Court's internal website) are in the process of being redesigned to make them more dynamic and easier to use. The Court has also set up an electronic document management system (EDMS), which provides immediate access to case files and archive documentation. In particular the ZyImage document retrieval software, which provides an updated bilingual database, enables users quickly to access and consult a wide range of legal and Court-related materials. In its budgetary request for the biennium 2004-2005, the Court has asked for provision to be made for an additional professional officer in the Computerization Division, which currently has only one professional category post. The Court believes that it is absolutely essential to recruit a professional with advanced IT skills in order to be able to meet the General Assembly's request for more enhanced use of modern technology.

Nor can the Court overlook the need for well-qualified young lawyers to assist with research for its 15 Members, and to this end in its latest budgetary proposal it has further requested the conversion of the funds temporarily available for five law clerks into established posts. The Court has also requested the creation of two security posts, as recommended by the United Nations Security Co-ordinator. In making these requests, which are presently under consideration, the Court has restricted itself to proposals which are financially modest but also of the utmost significance for the implementation of key aspects of its work. The Court hopes that these budgetary proposals will meet with your agreement, thereby enabling the principal judicial organ of the United Nations better to serve the international community.

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Mr. President, Excellencies, Ladies and Gentlemen,

While the International Court of Justice carries out its work in the tranquil setting of The Hague, far from the hustle and bustle of New York Headquarters, its activities contribute in a very direct way to the overall aims and objectives of the United Nations. The Court's potential in this regard is apparent in the wide-ranging impact its work already has on the international community. In particular, the role which the Court plays, through the power of justice and international law, in resolving disputes between States is widely recognized and evidenced by the number of cases on the Court's docket. Furthermore, it is not uncommon that these cases deal directly with issues concerning international peace and security. The impartiality of the Court's judicial procedure and the equality of arms which it guarantees to the parties before it inherent elements in the Court's nature without doubt contribute to the effective resolution of such disputes. In performing its dispute resolution function, the Court, which embodies the principle of equality of all before the law, acts as guardian of international law, and ensures the maintenance of a coherent international legal order. I can assure you that the Court will pursue its efforts to respond to the hopes placed in it.

The Court thanks you for your help and counts on you for continuing support in years to come, in the interests of justice, peace and law.

Thank you, Mr. President."

CHAPTER VII

PUBLICATIONS OF THE COURT

The publications of the International Court of Justice are published by the Registry (Rules of Court, Art. 26, para. 1 *(i)*, and Art. 71, para. 6; Instructions for the Registry, Arts. 23, 43, 67-69 and 72).

Information about the publications of the present Court and those of its forerunner, the *Permanent Court of International Justice*, is given below[1].

I. GENERAL

1. Series Published by the International Court of Justice

The publications of the Court are at present classified in series as shown hereunder. Their size is 15.6 × 24 cm when they are published in paper covers and 16 × 24.5 cm when published in hard covers.

(a) *Reports of Judgments, Advisory Opinions and Orders*

This series contains the Reports of the decisions of the Court in both the English and the French texts. Each decision is published as soon as given, in an unbound fascicle which is sold separately[2]. To allow for binding, a continuous system of pagination is adopted for all the fascicles of any one year.

An analytical index is published for each year's decisions; this also may be purchased separately. A binder is available for those who obtain the separate fascicles and the index at the time of their publication. The collected decisions, with index, for each year may also be obtained ready bound together in one or two volumes.

Fifty-seven bound volumes have so far been published, the first being the *I.C.J. Reports* for the years 1947 and 1948, which are collected in a single volume. The latest is the volume for 2002. (The *I.C.J. Reports 1965*, *1967*, *1968*, *1977*, *1979* and *1983* are not indexed.)

Official citation of the series: *I.C.J. Reports*, with an indication of the year. For a separate fascicle the short title of the case and the nature of the decision should be given, e.g.: *Nottebohm, Preliminary Objection, Judgment, I.C.J. Reports 1953*, p. 111; or *Nottebohm, Order of 15 January 1954, I.C.J. Reports 1954*, p. 7. (See Sec. II, pp. 352-365, below.)

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[1] The documents prepared and distributed by the Registry for information purposes are dealt with in Chapter V, above: see pp. 191-194.

[2] See Chap. V, p. 199, above.

(b) *Pleadings, Oral Arguments, Documents*

Volumes in this series are published after the termination of each case and contain the documentation relating to the case in the original language, that is, in English or in French.

This comprises the document instituting proceedings[1], the written pleadings and their annexes[2], the verbatim record of the oral proceedings[3], any documents submitted to the Court after the closure of the written proceedings, and the correspondence. The Court however decided in 1967 that the annexes to the pleadings would no longer be printed in cases which had been removed from the General List either because the application instituting proceedings disclosed that the other side had not accepted the jurisdiction of the Court or because there had been a settlement or a discontinuance of the case.

Depending upon the length of the documents to be printed, one or more volumes are issued for each case. The volumes which appeared up to 31 December 1964 are sold in hard covers whereas subsequent volumes are in paper covers.

Abbreviated reference: *I.C.J. Pleadings*, with the short title of the case, e.g.: *I.C.J. Pleadings, Nottebohm*, Vol. I. (See Sec. III, pp. 359-368, below.)

(c) *Acts and Documents concerning the Organization of the Court*

Five volumes have appeared in this bilingual (English/French) series.

No. 1 is now out of print.

No. 2 contained, in paper covers, the text of the Rules of Court as amended in 1972.

No. 3 contained the texts of the Charter of the United Nations, the Statute and Rules of Court and the Resolution concerning the Internal Judicial Practice of the Court, together with certain documents relating to the Court's privileges and immunities. It was published in 1977, in paper covers.

No. 4 contained the same documents as *No. 3* but with the text of the 1978 revised Rules of Court replacing that of the 1972 amended Rules; it further included certain resolutions concerning States entitled to appear before the Court. It was published in July 1978, in paper covers.

No. 5 contains the same documents as *No. 4*, with some corrections and an additional resolution concerning a State entitled to appear before the Court. It was published in July 1990, the stock of *No. 4* having been exhausted, and is available in paper covers.

Abbreviated reference: *I.C.J. Acts and Documents*, with an indication of the number of the volume.

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[1] See Chap. V, pp. 195 and 205, above.

[2] *Ibid.*, pp. 196-197, above.

[3] *Ibid.*, pp. 197-199, above.

(d) *Yearbook*

Each year there appears a *Yearbook* in which an account is given of the work of the Court during the period from 1 August of the preceding year to 31 July of the current year. There is also a French edition of this publication, the *Annuaire*.

The present *Yearbook* is the fifty-eighth in the series, which started with *I.C.J. Yearbook 1946-1947*. Like the 39 preceding issues, it is sold in paper covers whereas the first 18 volumes were sold in hard covers.

Abbreviated reference: *I.C.J. Yearbook*, with an indication of the year covered by the volume, e.g.: *I.C.J. Yearbook 1954-1955*.

(e) *Bibliography of the International Court of Justice*

Early each year the Registry issues a *Bibliography* listing such works and documents relating to the Court as have come to its attention during the previous year.

Bibliographies Nos. 1-18 formed Chapter IX in the appropriate *Yearbook* or *Annuaire* up to the 1963-1964 editions. Beginning with No. 19, later *Bibliographies* were issued as separate fascicles with introduction and index in both English and French, but arranged so as to facilitate the binding of several numbers together. The latest *I.C.J. Bibliography* published is No. 52 (year 1998).

Abbreviated reference: *I.C.J. Bibliography*, with the serial number of the volume, followed, if desired, by the entry number of the work cited. E.g.: *I.C.J. Bibliography No. 7:* 2528 for the *Bibliographies* prior to No. 35, and *I.C.J. Bibliography No. 35:* 81: 150 as from 1981.

2. *Dissemination of the Publications of the International Court of Justice*

The publications of the Court are distributed free on request and as required to the governments or public services of all States entitled to appear before the Court.

They may be consulted in major law libraries, including many university libraries, certain depository libraries for United Nations publications, and libraries aided by the United Nations programme of assistance in the teaching, study, dissemination and wider appreciation of international law.

They are sold by the Sales and Marketing Sections of the United Nations Secretariat:

United Nations, Room DC2-853, 2 United Nations Plaza,
New York, NY 10017, United States of America.
Tel.: 1-212-963 8302; Fax: 1-212-963 3489
E-mail: publications@un.org
or
United Nations, Room E-4, Palais des Nations,
8-14 avenue de la Paix, 1211 Geneva 10, Switzerland.
Tel.: 41-22-917 2614; Fax: 41-22-917 0027
E-mail: unpubli@unog.ch

They may also be obtained from any bookseller selling United Nations publications. *Orders and requests for information should be sent to these addresses and not to the Registry.*

A *Catalogue* is issued in English and French. It lists the sales number of each publication and its price in US dollars. It is brought up to date each year, by means either of an addendum or of a new edition. A free copy of the *Catalogue* may be obtained by applying to one of the Sales Sections of the United Nations or to the Registry.

3. Publications of the Permanent Court of International Justice

Between 1922 and 1946 the *Permanent Court of International Justice* published the following series:

Series A (Nos. 1-24): *Collection of Judgments* (up to and including 1930)

Series B (Nos. 1-18): *Collection of Advisory Opinions* (up to and including 1930)

Series A/B (Nos. 40-80): *Judgments, Orders and Advisory Opinions* (beginning in 1931)

Series C (Nos. 1-19): *Acts and Documents relating to Judgments and Advisory Opinions given by the Court* (up to and including 1930)

Series C (Nos. 52-88): *Pleadings, Oral Statements and Documents* (beginning in 1931)

Series D (Nos. 1-6): *Acts and Documents concerning the Organization of the Court*

Series E (Nos. 1-16): *Annual Reports*

Series F (Nos. 1-4): *General Indexes*

They may be consulted in certain university and other libraries with a substantial legal section.

II. OFFICIAL CITATION OF JUDGMENTS, ADVISORY OPINIONS AND ORDERS

In order to standardize the mode of citation of the decisions of the International Court of Justice and the *Permanent Court of International Justice*, the Court decided to use the titles below, which are listed in chronological order. Orders solely fixing or extending time-limits are omitted.

1. Permanent Court of International Justice

1922

Designation of the Workers' Delegate for the Netherlands at the Third Session of the International Labour Conference, Advisory Opinion, 1922, P.C.I.J., Series B, No. 1.

Competence of the ILO in Regard to International Regulation of the Conditions of Labour of Persons Employed in Agriculture, Advisory Opinion, 1922, P.C.I.J., Series B, No. 2.

Competence of the ILO to Examine Proposals for the Organization and Development of the Methods of Agricultural Production, Advisory Opinion, 1922, P.C.I.J., Series B, No. 3.

1923

Nationality Decrees Issued in Tunis and Morocco, Advisory Opinion, 1923, P.C.I.J., Series B, No. 4.

Status of Eastern Carelia, Advisory Opinion, 1923, P.C.I.J., Series B, No. 5.

S.S. "Wimbledon", Judgments, 1923, P.C.I.J., Series A, No. 1.

German Settlers in Poland, Advisory Opinion, 1923, P.C.I.J., Series B, No. 6.

Acquisition of Polish Nationality, Advisory Opinion, 1923, P.C.I.J., Series B, No. 7.

Jaworzina, Advisory Opinion, 1923, P.C.I.J., Series B, No. 8.

1924

Mavrommatis Palestine Concessions, Judgment No. 2, 1924, P.C.I.J., Series A, No. 2.

Monastery of Saint-Naoum, Advisory Opinion, 1924, P.C.I.J., Series B, No. 9.

Treaty of Neuilly, Article 179, Annex, Paragraph 4 (Interpretation), Judgment No. 3, 1924, P.C.I.J., Series A, No. 3.

1925

Exchange of Greek and Turkish Populations, Advisory Opinion, 1925, P.C.I.J., Series B, No. 10.

Interpretation of Judgment No. 3, Judgment No. 4, 1925, P.C.I.J., Series A, No. 4.

Mavrommatis Jerusalem Concessions, Judgment No. 5, 1925, P.C.I.J., Series A, No. 5.

Polish Postal Service in Danzig, Advisory Opinion, 1925, P.C.I.J., Series B, No. 11.

Certain German Interests in Polish Upper Silesia, Jurisdiction, Judgment No. 6, 1925, P.C.I.J., Series A, No. 6.

Interpretation of Article 3, Paragraph 2, of the Treaty of Lausanne, Advisory Opinion, 1925, P.C.I.J., Series B, No. 12.

1926

Certain German Interests in Polish Upper Silesia, Merits, Judgment No. 7, 1926, P.C.I.J., Series A, No. 7.

Competence of the ILO to Regulate Incidentally the Personal Work of the Employer, Advisory Opinion, 1926, P.C.I.J., Series B, No. 13.

1927

Denunciation of the Treaty of 2 November 1865 between China and Belgium, Orders of 8 January, 15 February and 18 June 1927, P.C.I.J., Series A, No. 8.

Factory at Chorzów, Jurisdiction, Judgment No. 8, 1927, P.C.I.J., Series A, No. 9.

"Lotus", Judgment No. 9, 1927, P.C.I.J., Series A, No. 10.

Readaptation of the Mavrommatis Jerusalem Concessions, Judgment No. 10, 1927, P.C.I.J., Series A, No. 11.

Factory at Chorzów, Order of 21 November 1927, P.C.I.J., Series A, No. 12.

Jurisdiction of the European Commission of the Danube, Advisory Opinion, 1927, P.C.I.J., Series B, No. 14.

Interpretation of Judgments Nos. 7 and 8 (Factory at Chorzów), Judgment No. 11, 1927, P.C.I.J., Series A, No. 13.

1928

Denunciation of the Treaty of 2 November 1865 between China and Belgium, Order of 21 February 1928, P.C.I.J., Series A, No. 14.

Jurisdiction of the Courts of Danzig, Advisory Opinion, 1928, P.C.I.J., Series B, No. 15.

Rights of Minorities in Upper Silesia (Minority Schools), Judgment No. 12, 1928, P.C.I.J., Series A, No. 15.

Denunciation of the Treaty of 2 November 1865 between China and Belgium, Order of 13 August 1928, P.C.I.J., Series A, No. 16.

Interpretation of the Greco-Turkish Agreement of 1 December 1926 (Final Protocol, Article IV), Advisory Opinion, 1928, P.C.I.J., Series B, No. 16.

Factory at Chorzów, Merits, Judgment No. 13, 1928, P.C.I.J., Series A, No. 17.

1929

Denunciation of the Treaty of 2 November 1865 between China and Belgium, Order of 25 May 1929, P.C.I.J., Series A, No. 18.

Factory at Chorzów, Order of 25 May 1929, P.C.I.J., Series A, No. 19.

Serbian Loans, Judgment No. 14, 1929, P.C.I.J., Series A, No. 20.

Brazilian Loans, Judgment No. 15, 1929, P.C.I.J., Series A, No. 21.

Free Zones of Upper Savoy and the District of Gex, Order of 19 August 1929, P.C.I.J., Series A, No. 22.

Territorial Jurisdiction of the International Commission of the River Oder, Judgment No. 16, 1929, P.C.I.J., Series A, No. 23.

1930

Greco-Bulgarian "Communities", Advisory Opinion, 1930, P.C.I.J., Series B, No. 17.

Free City of Danzig and ILO, Advisory Opinion, 1930, P.C.I.J., Series B, No. 18.

Free Zones of Upper Savoy and the District of Gex, Order of 6 December 1930, P.C.I.J., Series A, No. 24.

1931

Access to German Minority Schools in Upper Silesia, Advisory Opinion, 1931, P.C.I.J., Series A/B, No. 40, p. 4.

Customs Régime between Germany and Austria, Advisory Opinion, 1931, P.C.I.J., Series A/B, No. 41, p. 37.

Railway Traffic between Lithuania and Poland, Advisory Opinion, 1931, P.C.I.J., Series A/B, No. 42, p. 108.

Access to, or Anchorage in, the Port of Danzig, of Polish War Vessels, Advisory Opinion, 1931, P.C.I.J., Series A/B, No. 43, p. 128.

1932

Treatment of Polish Nationals and Other Persons of Polish Origin or Speech in the Danzig Territory, Advisory Opinion, 1932, P.C.I.J., Series A/B, No. 44, p. 4.

Interpretation of the Greco-Bulgarian Agreement of 9 December 1927, Advisory Opinion, 1932, P.C.I.J., Series A/B, No. 45, p. 68.

Free Zones of Upper Savoy and the District of Gex, Judgment, 1932, P.C.I.J., Series A/B, No. 46, p. 96.

Interpretation of the Statute of the Memel Territory, Preliminary Objection, Judgment, 1932, P.C.I.J., Series A/B, No. 47, p. 243.

Legal Status of the South-Eastern Territory of Greenland, Orders of 2 and 3 August 1932, P.C.I.J., Series A/B, No. 48, p. 268.

Interpretation of the Statute of the Memel Territory, Merits, Judgment, 1932, P.C.I.J., Series A/B, No. 49, p. 294.

Interpretation of the Convention of 1919 concerning Employment of Women during the Night, Advisory Opinion, 1932, P.C.I.J., Series A/B, No. 50, p. 365.

1933

Delimitation of the Territorial Waters between the Island of Castellorizo and the Coasts of Anatolia, Order of 26 January 1933, P.C.I.J., Series A/B, No. 51, p. 4.

Prince von Pless Administration, Order of 4 February 1933, P.C.I.J., Series A/B, No. 52, p. 11.

Legal Status of Eastern Greenland, Judgment, 1933, P.C.I.J., Series A/B, No. 53, p. 22.

Prince von Pless Administration, Order of 11 May 1933, P.C.I.J., Series A/B, No. 54, p. 150.

Legal Status of the South-Eastern Territory of Greenland, Order of 11 May 1933, P.C.I.J., Series A/B, No. 55, p. 157.

Appeals from Certain Judgments of the Hungaro/Czechoslovak Mixed Arbitral Tribunal, Order of 12 May 1933, P.C.I.J., Series A/B, No. 56, p. 162.

Prince von Pless Administration, Order of 4 July 1933, P.C.I.J., Series A/B, No. 57, p. 167.

Polish Agrarian Reform and German Minority, Order of 29 July 1933, P.C.I.J., Series A/B, No. 58, p. 175.

Prince von Pless Administration, Order of 2 December 1933, P.C.I.J., Series A/B, No. 59, p. 194.

Polish Agrarian Reform and German Minority, Order of 2 December 1933, P.C.I.J., Series A/B, No. 60, p. 201.

Appeal from a Judgment of the Hungaro/Czechoslovak Mixed Arbitral Tribunal (The Peter Pázmány University), Judgment, 1933, P.C.I.J., Series A/B, No. 61, p. 208.

1934

Lighthouses case between France and Greece, Judgment, 1934, P.C.I.J., Series A/B, No. 62, p. 4.

Oscar Chinn, Judgment, 1934, P.C.I.J., Series A/B, No. 63, p. 65.

1935

Minority Schools in Albania, Advisory Opinion, 1935, P.C.I.J., Series A/B, No. 64, p. 4.

Consistency of Certain Danzig Legislative Decrees with the Constitution of the Free City, Advisory Opinion, 1935, P.C.I.J., Series A/B, No. 65, p. 41.

1936

Pajzs, Csáky, Esterházy, Order of 23 May 1936, P.C.I.J., Series A/B, No. 66, p. 4.

Losinger, Order of 27 June 1936, P.C.I.J., Series A/B, No. 67, p. 15.

Pajzs, Csáky, Esterházy, Judgment, 1936, P.C.I.J., Series A/B, No. 68, p. 30.

Losinger, Order of 14 December 1936, P.C.I.J., Series A/B, No. 69, p. 99.

1937

Diversion of Water from the Meuse, Judgment, 1937, P.C.I.J., Series A/B, No. 70, p. 4.

Lighthouses in Crete and Samos, Judgment, 1937, P.C.I.J., Series A/B, No. 71, p. 94.

Borchgrave, Judgment, 1937, P.C.I.J., Series A/B, No. 72, p. 158.

1938

Borchgrave, Order of 30 April 1938, P.C.I.J., Series A/B, No. 73, p. 4.

Phosphates in Morocco, Judgment, 1938, P.C.I.J., Series A/B, No. 74, p. 10.

Panevezys-Saldutiskis Railway, Order of 30 June 1938, P.C.I.J., Series A/B, No. 75, p. 53.

1939

Panevezys-Saldutiskis Railway, Judgment, 1939, P.C.I.J., Series A/B, No. 76, p. 4.

Electricity Company of Sofia and Bulgaria, Judgment, 1939, P.C.I.J., Series A/B, No. 77, p. 64.

Société Commerciale de Belgique, Judgment, 1939, P.C.I.J., Series A/B, No. 78, p. 160.

Electricity Company of Sofia and Bulgaria, Order of 5 December 1939, P.C.I.J., Series A/B, No. 79, p. 194.

1940

Electricity Company of Sofia and Bulgaria, Order of 26 February 1940, P.C.I.J., Series A/B, No. 80, p. 4.

2. International Court of Justice

1948

Corfu Channel, Preliminary Objection, Judgment, 1948, I.C.J. Reports 1947-1948, p. 15.

Corfu Channel, Order of 26 March 1948, I.C.J. Reports 1947-1948, p. 53.

Conditions of Admission of a State to Membership in the United Nations (Article 4 of the Charter), Advisory Opinion, 1948, I.C.J. Reports 1947-1948, p. 57.

Corfu Channel, Order of 17 December 1948, I.C.J. Reports 1947-1948, p. 124.

1949

Corfu Channel, Merits, Judgment, I.C.J. Reports 1949, p. 4.

Reparation for Injuries Suffered in the Service of the United Nations, Advisory Opinion, I.C.J. Reports 1949, p. 174.

Corfu Channel, Order of 19 November 1949, I.C.J. Reports 1949, p. 237.

Corfu Channel, Assessment of Amount of Compensation, Judgment, I.C.J. Reports 1949, p. 244.

1950

Competence of the General Assembly for the Admission of a State to the United Nations, Advisory Opinion, I.C.J. Reports 1950, p. 4.

Protection of French Nationals and Protected Persons in Egypt, Order of 29 March 1950, I.C.J. Reports 1950, p. 59.

Interpretation of Peace Treaties with Bulgaria, Hungary and Romania, First Phase, Advisory Opinion, I.C.J. Reports 1950, p. 65.

International Status of South West Africa, Advisory Opinion, I.C.J. Reports 1950, p. 128.

Interpretation of Peace Treaties with Bulgaria, Hungary and Romania, Second Phase, Advisory Opinion, I.C.J. Reports 1950, p. 221.

Asylum, Judgment, I.C.J. Reports 1950, p. 266.

Request for Interpretation of the Judgment of 20 November 1950 in the Asylum Case, Judgment, I.C.J. Reports 1950, p. 395.

1951

Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide, Advisory Opinion, I.C.J. Reports 1951, p. 15.

Haya de la Torre, Judgment, I.C.J. Reports 1951, p. 71.

Anglo-Iranian Oil Co., Interim Protection, Order of 5 July 1951, I.C.J. Reports 1951, p. 89.

Rights of Nationals of the United States of America in Morocco, Order of 31 October 1951, I.C.J. Reports 1951, p. 109.

Fisheries, Judgment, I.C.J. Reports 1951, p. 116.

1952

Ambatielos, Preliminary Objection, Judgment, I.C.J. Reports 1952, p. 28.

Anglo-Iranian Oil Co., Preliminary Objection, Judgment, I.C.J. Reports 1952, p. 93.

Rights of Nationals of the United States of America in Morocco, Judgment, I.C.J. Reports 1952, p. 176.

1953

Ambatielos, Merits, Judgment, I.C.J. Reports 1953, p. 10.

Minquiers and Ecrehos, Judgment, I.C.J. Reports 1953, p. 47.

Nottebohm, Preliminary Objection, Judgment, I.C.J. Reports 1953, p. 111.

1954

Monetary Gold Removed from Rome in 1943, Preliminary Question, Judgment, I.C.J. Reports 1954, p. 19.

Effect of Awards of Compensation Made by the United Nations Administrative Tribunal, Advisory Opinion, I.C.J. Reports 1954, p. 47.

Treatment in Hungary of Aircraft and Crew of United States of America (United States of America v. Hungary), Order of 12 July 1954, I.C.J. Reports 1954, p. 99.

Treatment in Hungary of Aircraft and Crew of United States of America (United States of America v. *Union of Soviet Socialist Republics), Order of 12 July 1954, I.C.J. Reports 1954*, p. 103.

Electricité de Beyrouth Company, Order of 29 July 1954, I.C.J. Reports 1954, p. 107.

1955

Nottebohm, Second Phase, Judgment, I.C.J. Reports 1955, p. 4.

Voting Procedure on Questions relating to Reports and Petitions concerning the Territory of South West Africa, Advisory Opinion, I.C.J. Reports 1955, p. 67.

1956

Aerial Incident of 10 March 1953, Order of 14 March 1956, I.C.J. Reports 1956, p. 6.

Aerial Incident of 7 October 1952, Order of 14 March 1956, I.C.J. Reports 1956, p. 9.

Antarctica (United Kingdom v. *Argentina), Order of 16 March 1956, I.C.J. Reports 1956*, p. 12.

Antarctica (United Kingdom v. *Chile), Order of 16 March 1956, I.C.J. Reports 1956*, p. 15.

Admissibility of Hearings of Petitioners by the Committee on South West Africa, Advisory Opinion, I.C.J. Reports 1956, p. 23.

Certain Norwegian Loans, Order of 28 September 1956, I.C.J. Reports 1956, p. 73.

Judgments of the Administrative Tribunal of the ILO upon Complaints Made against Unesco, Advisory Opinion, I.C.J. Reports 1956, p. 77.

1957

Certain Norwegian Loans, Judgment, I.C.J. Reports 1957, p. 9.

Interhandel, Interim Protection, Order of 24 October 1957, I.C.J. Reports 1957, p. 105.

Right of Passage over Indian Territory, Preliminary Objections, Judgment, I.C.J. Reports 1957, p. 125.

1958

Application of the Convention of 1902 Governing the Guardianship of Infants, Judgment, I.C.J. Reports 1958, p. 55.

Aerial Incident of 4 September 1954, Order of 9 December 1958, I.C.J. Reports 1958, p. 158.

1959

Interhandel, Preliminary Objections, Judgment, I.C.J. Reports 1959, p. 6.

Aerial Incident of 27 July 1955 (Israel v. Bulgaria), Judgment, I.C.J. Reports 1959, p. 127.

Sovereignty over Certain Frontier Land, Judgment, I.C.J. Reports 1959, p. 209.

Aerial Incident of 27 July 1955 (United Kingdom v. Bulgaria), Order of 3 August 1959, I.C.J. Reports 1959, p. 264.

Aerial Incident of 7 November 1954, Order of 7 October 1959, I.C.J. Reports 1959, p. 276.

1960

Right of Passage over Indian Territory, Merits, Judgment, I.C.J. Reports 1960, p. 6.

Aerial Incident of 27 July 1955 (United States of America v. Bulgaria), Order of 30 May 1960, I.C.J. Reports 1960, p. 146.

Constitution of the Maritime Safety Committee of the Inter-Governmental Maritime Consultative Organization, Advisory Opinion, I.C.J. Reports 1960, p. 150.

Compagnie du Port, des Quais et des Entrepôts de Beyrouth and Société Radio-Orient, Order of 31 August 1960, I.C.J. Reports 1960, p. 186.

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III. ABBREVIATED REFERENCES TO PLEADINGS, ORAL ARGUMENTS, DOCUMENTS

In order to standardize the abbreviated references to the *Pleadings, Oral Arguments, Documents* series of the International Court of Justice and the corresponding volumes (*Series C*) of the *Permanent Court of International Justice*, the Court decided to use the titles below, which are given in chronological order based on the date of entry of the case in the General List.

For the convenience of the reader, the names of the Parties in contentious cases (separated by a stroke if proceedings were instituted by means of a special agreement), or the name of the body which requested the advisory opinion, have been added in small type to the abbreviated references.

An asterisk indicates that a case was removed from the list before a final judgment or an advisory opinion was given, or if it failed for some other reason to reach its normal conclusion.

Note should be taken of the fact that, with regard to the International Court of Justice, the information given below refers only to the volumes of the *Pleadings, Oral Arguments, Documents* series, which are published only after the conclusion of a case. As mentioned above (pp. 192-193), written pleadings (if accessible to the public) and oral pleadings in pending cases will, generally, be available on the Court's website, since its launch in 1997.

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CHAPTER VIII

FINANCES OF THE COURT

I. Financial Regulations

In regard to financial matters, the International Court of Justice applies Articles 32, 33, 35 and 64 of the Statute of the Court, Article 26, paragraph 1 *(j)*, of the Rules of Court, the Staff Regulations for the Registry and the relevant resolutions of the General Assembly of the United Nations.

1. General Regulations

(a) *Method of covering expenditure*

Article 33 of the Statute of the Court provides: "The expenses of the Court shall be borne by the United Nations in such a manner as shall be decided by the General Assembly." As the budget of the Court has consequently been incorporated in the budget of the United Nations, member States participate in the expenses of both in the same proportion, in accordance with the scale of assessments determined by the General Assembly.

States which are not members of the United Nations but which are parties to the Statute pay, in accordance with the undertaking into which they entered when they became parties to the Statute (see Chap. III, pp. 100-101, above), a contribution the amount of which is fixed from time to time by the General Assembly in consultation with them.

If a State which is not a party to the Statute but to which the Court is open is a party to a case, the Court will fix the amount which that party is to contribute towards the expenses of the Court (Statute, Art. 35, para. 3). Payment is then made by the State concerned to the account of the United Nations in New York.

The contributions of States which are not members of the United Nations are taken into account as miscellaneous income received by the Organization.

Under an established rule, sums derived from staff assessment, sales of publications (dealt with by the Sales Sections of the Secretariat – see Chap. VII, p. 334, above), bank interest, etc., are also recorded as United Nations income.

(b) *Drafting of the budget*

In accordance with the Instructions for the Registry (Arts. 26-30), a preliminary draft budget is prepared by the Registrar. If the Court is sitting, this preliminary draft is submitted for the consideration of the Budgetary and Administrative Committee of the Court and then, for approval, to the Court itself. If the Court is not sitting, approval must be given by the President.

When it has been approved, the draft budget is forwarded to the Secretariat of the United Nations for incorporation in the draft budget of the United Nations. It is then examined by the United Nations Advisory Committee on Administrative and Budgetary Questions and is afterwards submitted to the Fifth Committee of the General Assembly. It is finally adopted by the General Assembly in plenary meeting, within the framework of the resolutions concerning the budget of the United Nations and its unforeseen and extraordinary expenses.

Since 1974 the budget has been presented biennially.

(c) *Financing of appropriations and accounts*

The Registrar is responsible for executing the budget, with the assistance of the Finance Officer. He has to ensure that proper use is made of the funds voted and must see that no expenses are incurred that are not provided for in the budget (Instructions for the Registry, Art. 31). He alone is entitled to incur liabilities in the name of the Court, subject to any possible delegations of authority (Instructions for the Registry, Art. 35).

The accounts of the Court are audited every year by the auditors of the Secretariat of the United Nations and/or by the Board of Auditors appointed by the General Assembly. At the end of each biennium, the closed accounts are forwarded to the Secretariat of the United Nations (Instructions for the Registry, Art. 34).

2. *Salaries and Expenses of Judges*

(a) *Emoluments*

By virtue of Article 32, paragraph 5, of the Statute, the salaries, allowances and compensation paid to the judges are fixed by the General Assembly. In this connection, the General Assembly adopted resolution 19 (I) of 6 February 1946, resolution 85 (I) of 11 December 1946, resolution 474 (V) of 15 December 1950, resolution 1738 (XVI) of 20 December 1961, resolution 2366 (XXII) of 19 December 1967, resolution 2890 B (XXVI) of 22 December 1971, resolution 3193 B (XXVIII) of 18 December 1973, resolution 3537 B (XXX) of 17 December 1975, resolution 31/204 of 22 December 1976, resolution 35/220 A of 17 December 1980, resolution 40/257 of 18 December 1985, resolution 43/217 of 21 December 1988, resolution 45/250 of 21 December 1990, resolution 48/252 of 26 May 1994.

resolution 50/216 of 23 December 1995, resolution 53/214 of 18 December 1998 and resolution 56/285 of 27 June 2002.

The emoluments of Members of the Court are made up of an annual salary which may not be decreased during the period of office (Statute of the Court, Art. 32, paras. 1 and 5). With effect from 1 January 1999, the General Assembly (resolution 53/214) has fixed the emoluments of Members of the Court at US$160,000. The General Assembly further decided that the emoluments and other conditions of service shall be reviewed every three years with the next review at its fifty-ninth session.

Under Article 32, paragraphs 2 and 3, of the Statute, the President of the Court and the Vice-President (for every day on which he acts as President) receive special allowances in addition, at a rate fixed by resolution 40/257 of 18 December 1985.

Finally, under Article 32, paragraph 4, of the Statute and General Assembly resolution 19 (I) of 6 February 1946, judges *ad hoc* chosen to sit in certain cases under Article 31 of the Statute receive daily fees. With effect from 1 January 1999, the daily fee of *ad hoc* judges has been fixed at US$438, being 1/365th of US$160,000.

The emoluments of the judges are thus as set out on the following scale:

	US$
President:	
Annual salary	160,000
Special allowance	15,000
Vice-President:	
Annual salary	160,000
Allowance equivalent to US$94 for every day on which he acts as President, up to an annual maximum of	9,400
Other Members:	
Annual salary	160,000
Judges ad hoc:	
Fee of US$438 for each day on which they exercise their functions	

(b) *Pensions*

Article 32, paragraph 7, of the Statute provides: "Regulations made by the General Assembly shall fix the conditions under which retirement pensions may be given to Members of the Court." The General Assembly adopted the Pension Scheme Regulations for Members of the International Court of Justice which appear as an annex to resolution 86 (I) of 11 December 1946. Amendments to these regulations were made by resolution 1408 (XIV) of 1 December 1959. The General Assembly adopted new regulations by its resolution 1562 (XV) of 18 December 1960. Some provisions of the regulations were modified by resolution 1925 (XVIII) of 11 December 1963, resolution 2367 (XXII) of 19 December 1967, resolution 2890 A (XXVI) of 22 December 1971, resolution 3193 A (XXVIII) of 18 December 1973, resolution 3537 A (XXX) of 17 December

1975, resolution 35/220 B of 17 December 1980. The General Assembly effected further modifications by resolution 38/239 of 20 December 1983, resolution 40/257 of 18 December 1985, resolution 45/250 of 21 December 1990 and resolution 53/214 of 18 December 1998.

According to the regulations which came into operation on 1 January 1984, any Member of the Court who has ceased to hold office and who has reached the age of 60 years is entitled, if he has completed at least three years of service, to a retirement pension during the remainder of his life.

With effect from 1 January 1999 (resolution 53/214), if a Member of the Court has served a full term of nine years, the amount of the annual pension shall be US$60,000 in 1999, US$70,000 in 2000 and thereafter one-half of the annual salary. Members of the Court who were in office or elected on or before 1 January 1999, and who have served for more than nine years shall be entitled to a maximum pension of two-thirds of his or her annual salary. The retirement pension is reduced if he or she has served for less than nine years.

Furthermore, a Member of the Court who ceases to hold office before the age of 60 and who would be entitled to a retirement pension when he reached that age, may elect to receive a pension from any date after the date on which he ceases to hold office. The amount of such pension would be that amount which has the same actuarial value as the pension which would have been paid to him at the age of 60.

Provision is made also for disability pensions and pensions for widows and children.

By its resolution 31/204 of 22 December 1976, the General Assembly decided that the retirement pensions given to Members of the Court should be reviewed concurrently with the periodic revision of their annual salary. By its resolution 53/214 of 18 December 1998, the General Assembly decided that pensions in payment shall be automatically revised by the same percentage and at the same date as salary adjustments.

(c) *Conditions of service*

In Section C of resolution 40/257 of 18 December 1985, the General Assembly laid down certain conditions of service applicable to Members of the Court. The text of the relevant portion of this resolution is as follows:

> "*The General Assembly*,
>
> *Recalling* its resolutions 37/237, section XIV, of 21 December 1982, 38/234, section XVII, of 20 December 1983, and 39/236, section V, of 18 December 1984, on conditions of service and compensation for officials other than Secretariat officials,
>
> *Having considered* the report of the Secretary-General and the related report of the Advisory Committee on Administrative and Budgetary Questions,

> 1. *Decides* that, with effect from 1 January 1986, the President and members of the Court who have taken up primary residence in The Hague, shall be reimbursed, up to a ceiling of $4,500, for the actual cost of educating their children in respect of each child each year up to the award of the first recognized degree and that provision shall be made for one related travel per year in respect of each child from the place of scholastic attendance, when outside the Netherlands, to The Hague;
>
> 2. *Decides* that, with effect from 1 January 1986, those members of the Court, who have taken up and maintained a *bona fide* primary residence at The Hague for at least five continuous years during service with the Court, shall be eligible to receive a lump sum equivalent to eighteen weeks of annual net base salary upon completion of their appointment and resettlement outside the Netherlands, and that those members of the Court, who have taken up and maintained a *bona fide* primary residence at The Hague for nine continuous years or more during service with the Court, shall receive the equivalent of twenty-four weeks of annual net base salary upon completion of service and relocation outside the Netherlands;
>
> 3. *Decides* that, with effect from 1 January 1986, in the event of the death of a member of the Court during his service, compensation shall be provided to the survivors in the form of a lump-sum payment equivalent to one month of base salary per year of service, subject to a minimum of three months and a maximum of nine months."

With effect from 1 January 2001, the ceiling for reimbursement for the actual cost of education, referred to in paragraph 1 of the above resolution, was fixed at US$17,584.

(d) *Travelling expenses*

By virtue of Article 32, paragraph 7, of the Statute, regulations made by the General Assembly fix the conditions under which Members of the Court have their travelling expenses refunded. The General Assembly adopted the Travel and Subsistence Regulations of the International Court of Justice which appear in the annex to resolution 85 (I) of 11 December 1946. On 21 December 1982, by resolution 37/240, it adopted new Travel and Subsistence Regulations of the International Court of Justice (set out in *I.C.J. Yearbook 1982-1983*, pp. 164-167).

3. Salaries, Allowances and Expenses of the Registrar and Officials of the Registry

(a) *Emoluments*

By virtue of Article 32, paragraph 6, of the Statute, the salary of the Registrar is fixed by the General Assembly on the proposal of the Court. By resolution 85 (I) of 11 December 1946 confirmed by resolution 474 (V) of 15 December 1950, the General Assembly decided that "the annual salary of the Registrar of the International Court of Justice shall be assimilated to that of a top-ranking director of the Secretariat of the United Nations". In the existing structure, the Registrar has the rank of an Assistant Secretary-General and the Deputy-Registrar that of a Director.

Officials of the Registry in the professional category, both permanent and temporary, receive the same salary and the same allowances as officials of the United Nations belonging to the same category.

For the purposes of the schedule of post adjustments applicable to the permanent staff of the professional category, The Hague was in Class 7/+2.7 as at 1 July 2004. For temporary staff the subsistence allowance is fixed at 237 euros a day.

Salaries and allowances of permanent and temporary staff members in the general service category are based on the best prevailing local rates.

The figures given in the budget estimates and accounts in respect of salaries are net figures, after deduction of staff assessment.

(b) *Pensions*

By virtue of Article 12 of the Staff Regulations for the Registry, the Registrar and the officials of the Registry are participants in the United Nations Joint Staff Pension Fund. They participate on the same conditions as all other officials of the United Nations.

(c) *Travelling expenses*

Under Article 5 of the regulations concerning the travel and subsistence allowances of the Members of the International Court of Justice, dated 21 December 1982 (*I.C.J. Yearbook 1982-1983*, p. 167), the travel and subsistence provisions applicable to the Registrar of the Court are as set out in the Staff Regulations of the United Nations for officials of comparable rank, subject to any exceptions authorized by the President of the Court.

The travelling expenses of officials of the Registry are paid under conditions similar to those applied in the Secretariat of the United Nations (Staff Regulations for the Registry, Art. 12).

4. Common Services

The common services of the Court and of the Registry and the capital expenditure of the Court come under special items in the budget.

In particular, the Court pays to the Carnegie Foundation an annual contribution for the premises it occupies at the Peace Palace and in the new wing (see Chap. V, p. 183, above). The amount of the contribution was first fixed by the General Assembly in resolution 84 (I) of 11 December 1946 and has subsequently undergone successive alterations. It was increased to 989,747 euros as from 1 January 2003 and to 1,004,593 euros as from 1 January 2004.

II. BUDGET FOR THE BIENNIUM 2004-2005

1. Ordinary Expenses

The Budget of the Court for the biennium 2004-2005, which forms Part II, Section 7, of the Budget of the United Nations, was adopted by the General Assembly on 23 December 2003 (resolution 58/271).

PROGRAMME UN-N-08-181. MEMBERS OF THE COURT	US$	US$
Salaries and allowances	4,848,800	
Pensions	2,803,000	
Travelling expenses	367,000	
Education grants	168,100	
		8,186,900
PROGRAMME UN-N-08-182. THE REGISTRY		
Salaries — established posts	9,926,900	
Salaries — temporary posts	1,950,400	
Common staff costs	4,890,200	
Salaries and travel costs of temporary assistance	1,649,600	
Consultants	35,100	
Travelling on official business	33,700	
Overtime	80,800	
Representation allowance	7,200	
Hospitality	17,100	
		18,591,000
PROGRAMME UN-N-08-800. COMMON SERVICES		
Contribution to the Carnegie Foundation	2,325,400	
General operating expenses	582,800	
Contractual printing	566,200	
Contracts — external translation	243,400	
Data processing services	125,600	
Supplies and materials	229,300	
Library	139,500	
Furniture and equipment	110,600	
Miscellaneous expenses	38,900	
Acquisition/replacement office automation equipment	398,300	
		4,760,000
		31,537,900

2. Unforeseen and Extraordinary Expenses

On 23 December 2003 the General Assembly, in accordance with previous practice, adopted resolution 58/273, containing the following provisions:

"*The General Assembly*

1. *Authorizes* the Secretary-General, with the prior concurrence of the Advisory Committee on Administrative and Budgetary Questions and subject to the Financial Regulations of the United Nations and the provisions of paragraph 3 below, to enter into commitments in the biennium 2004-2005 to meet unforeseen and extraordinary expenses arising either during or subsequent to that biennium, pro-

vided that the concurrence of the Advisory Committee shall not be necessary for:

. . . .

(*b*) Such commitments as the President of the International Court of Justice certifies relate to expenses occasioned by:

(i) The designation of *ad hoc* judges (Statute of the International Court of Justice, Article 31), not exceeding a total of $730,000;
(ii) The appointment of assessors (Statute, Article 30), or the calling of witnesses and the appointment of experts (Statute, Article 50), not exceeding a total of $50,000;
(iii) The maintenance in office for completion of the cases of judges who have not been re-elected (Statute, Article 13, paragraph 3), not exceeding a total of $40,000;
(iv) The payment of pensions and travel and removal expenses of retiring judges, and travel and removal expenses and installation grant of members of the Court (Statute, Article 32, paragraph 7) not exceeding a total of $410,000;
(v) The holding of sessions of the Court away from The Hague (Statute, Article 22), not exceeding a total of $25,000."

III. ACCOUNTS FOR THE BIENNIUM 2002-2003

1. *Budget Accounts*

The Court's accounts are presented in the *I.C.J. Yearbook* in relation to the biennial period concerned and not on the basis of the single financial year.

The table on page 377 gives a summary of the budget accounts for the biennium 2002-2003.

2. *Audit of Accounts*

The accounts were audited by the competent authorities from 8 to 19 March 2004.

Budget Accounts for the Biennium 2002-2003

	Appropriation after modifications and transfers US$		*Expenditure* US$	
Programme UN-N-08-181 Members of the Court				
Salaries and allowances	5,218,600		5,267,026	
Pensions	2,798,300		2,248,796	
Travelling expenses	321,300		314,057	
Education grants	94,900		94,342	
		8,433,100		7,924,221
Programme UN-N-08-182 The Registry				
Salaries — established posts	8,215,200		8,090,625	
Salaries — temporary posts	1,534,800		1,532,342	
Common staff costs	3,185,800		3,155,369	
Salaries and travel costs of temporary assistance	1,726,200		1,646,894	
Consultants	47,700		47,209	
Travelling on official business	40,100		36,903	
Overtime	125,600		129,101	
Representation allowance	7,200		7,200	
Hospitality	14,200		12,988	
		14,896,800		14,658,631
Programme UN-N-08-800 Common Services				
Contribution to the Carnegie Foundation	1,993,800		2,006,861	
General operating expenses	518,900		481,916	
Contractual printing	465,300		465,521	
Contracts — external translation	438,600		434,973	
Data processing services	121,300		120,642	
Supplies and materials	196,500		191,792	
Library	101,500		92,877	
Furniture and equipment	178,600		176,152	
Miscellaneous expenses	17,900		15,196	
Acquisition/replacement office automation equipment	263,000		257,689	
Transportation equipment	21,500		30,780	
		4,316,900		4,274,399
		27,646,800		26,857,251

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